

1 SAN LUIS OBISPO, CALIFORNIA, OCTOBER 26, 1999 - 9:45 A.M.

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3 CHAIRMAN EATON: Good morning, everyone.

4 Welcome to the October 26th meeting of the California

5 Integrated Waste Management Board. Can you hear in

6 the back pretty well? Today we're short one member

7 with an excused absence. Ms. Linda Moulton-Patterson

8 will be here tomorrow.

9 Madam Secretary, will you please call the

10 roll.

11 BOARD SECRETARY: Board Members Jones.

12 BOARD MEMBER JONES: Here.

13 BOARD SECRETARY: Pennington.

14 BOARD MEMBER PENNINGTON: Here.

15 BOARD SECRETARY: Roberti.

16 BOARD MEMBER ROBERTI: Here.

17 BOARD SECRETARY: Chairman Eaton.

18 CHAIRMAN EATON: Here.

19 Members, I'll read a series of late ex

20 partes that I received. If for any reason you should have

21 additional ex partes other than what I read, at the

22 appropriate time that I call upon you, read them into the

23 record.

24 The first ex parte I received late

25 yesterday was from the American Forest and Paper

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1 Association regarding postconsumer paper recovery
2 calculation; letter from City of Walnut regarding the SRRE
3 program implementation regarding Agenda Item 25.

4 Then we get to Mr. Jones's item. If you
5 can bear with me here, there's a few of them -- City of
6 Sunnyvale regarding the landfill bioreactor; County of
7 Sonoma regarding the landfill bioreactor project; the
8 County of Sacramento regarding the landfill bioreactor; a
9 firm called Emcon/OWT, member of the IT Group, also
10 regarding the landfill bioreactor; the Institute for
11 Environmental Management out of Palo Alto, California
12 regarding the landfill bioreactor project; the group
13 called EPRI, Mr. Evan Hughes, Manager of Biomass, also
14 regarding the landfill bioreactor; just up the coast,
15 Monterey Regional Waste Management District, letter from
16 Mr. William Mary, their engineer regarding the bioreactor.

17 Mr. Jones, have I missed anyone?

18 BOARD MEMBER JONES: Maybe Waste Management
19 and Davis.

20 CHAIRMAN EATON: Perhaps they'll still come
21 in. The other letter that I have received is a letter
22 late, very late yesterday afternoon, after 4:00, from the
23 City of Lakewood regarding their agenda item as well. I
24 also have one other regarding the City of Lakewood from
25 Don Kanabi, County Board of Supervisors.

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1 I'll start on my left and see if,
2 Mr. Pennington, any additional ones to report other than
3 the ones I just read into the record?

4 BOARD MEMBER PENNINGTON: Mr. Chairman, I
5 also got a letter from Waste Management, Chuck White,
6 concerning the bioreactor; letter from the City of
7 Claremont, Mark Harmon on their biennial review, and I got
8 a letter from Senator Richard Alarcon on the concepts in
9 the L.A. Library.

10 CHAIRMAN EATON: Mr. Jones.

11 BOARD MEMBER JONES: Mr. Chairman, all of
12 yours and just a hello to Al Rizzoli from our local hauler
13 here in town, our host tonight; and then the letter from
14 the City of Lakewood that came in at 4:05 last night,
15 talking about working together -- I guess yesterday.

16 CHAIRMAN EATON: Senator Roberti, any
17 additional?

18 BOARD MEMBER ROBERTI: Yes, Mr. Chairman.

19 I would add Mr. Antone Pacheco, the Manager
20 of Solid Waste Management; the County of Santa Clara,
21 regarding the composting facility; and also from Senator
22 Richard Alarcon regarding Lakeview Terrace Arbory.

23 CHAIRMAN EATON: Great. Thank you. And I
24 also said a quick hello to Al Rizzoli from San Luis
25 Obispo.

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1 For those of you who may be attending for
2 the first time one of our Board meetings, welcome. In
3 addition, there are speaker slips, I believe, located in
4 the back; is that correct? This is a different room, so
5 we're checking. That would be right outside the door. If
6 you wish to speak on any agenda item, if you'll kindly
7 fill out one of those and bring them to one of the women
8 in the front, we'll make sure that you get on the agenda
9 as well as the proper agenda item for those who wish to
10 speak this morning.

11 First, before we begin, I'd like to say
12 thank you to the County, as well as the City and all of
13 the local jurisdictions within the County of San Luis
14 Obispo, for having us here to have our monthly Board
15 meeting. Last year we were just down the coast in Santa
16 Barbara. This year we're a little up the coast. We're
17 very happy to be here and to give us a perspective on
18 what's happening along the central coast. Mr. Bill
19 Worrell, Manager of the San Luis Obispo Authority, will
20 kindly give us a presentation.

21 Mr. Worrell.

22 MR. WORRELL: Thank you.

23 CHAIRMAN EATON: Everyone's computer
24 working? At our last meeting, I think someone pulled the
25 plug on the computer.

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1 (Laughter)

2 CHAIRMAN EATON: Hopefully we can't make it
3 two strikes. I think there's a three strikes law.

4 Mr. Worrell, do you need the lights turned
5 down? I think there's only one off and on switch. I
6 don't think there's a dimmer.

7 MR. WORRELL: This is a low-tech chamber
8 here.

9 CHAIRMAN EATON: Thank you.

10 MR. WORRELL: Well, I would like to welcome
11 you. I'm Bill Worrell, the Manager of the San Luis Obispo
12 County Integrated Waste Management Authority. We are a
13 joint powers agreement regional agency. That consists of
14 the County and six cities within the County, all the
15 cities with the exception of the City of Paso Robles. Our
16 Board consists of the five members of the Board of
17 Supervisors and one elected official from each of the six
18 member cities. While we are a regional agency, we have
19 not submitted to the Integrated Waste Management Board to
20 be recognized as such by your body.

21 We do have a long history of recycling in
22 this county. San Luis Garbage started one of the very
23 first curbside recycling programs in California in the
24 late 1970s and it is ongoing today. And that kind of
25 points out the public-private partnership that we have had

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1 throughout our history in the county here.

2 I would like to recognize there are several
3 members of local governments here. There's Mary
4 Whittlesee in the back, Ron Munz, Bob Nicholson, and of
5 course you know Al Rizzoli and Tom Marks from San Luis
6 Garbage, (inaudible) Mission Country. They sound like
7 waste management with all these names, but a fairly small
8 regional company here. All our landfills and all our
9 hauling is done by private companies and operated by
10 private companies, so it's a partnership. The Integrated
11 Waste Management Authority only has two full-time staff
12 people, so to get our projects done we have to work closer
13 with these folks.

14 Now, recognizing you have a busy day today
15 you probably won't get to go out to see much of the local
16 area. I thought I would show you a few slides before we
17 get into our program. And recognize I've been doing
18 garbage for 20 years, so when I show you slides of the
19 local area, it probably looks different than what you may
20 get from the Chamber of Commerce.

21 So first what we see here is Morro Rock.
22 However, we don't realize that that's the old landfill in
23 San Luis Obispo County.

24 (Laughter)

25 MR. WORRELL: This may look like a coastal

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1 scene to you, but it's actually the future home of our
2 barge transfer station where we're going to ship all our
3 waste to Japan.

4 (Laughter)

5 MR. WORRELL: This is a vineyard. If we
6 don't get our barge transfer station, we can also do our
7 regional landfill that Tom and Al want to build here, take
8 all the recognized (inaudible).

9 Finally, our staff is small so we can
10 afford a nice office and this is IWMA office complex we
11 share with Hearst Castle.

12 (Laughter)

13 MR. WORRELL: So with that, I'd like to
14 talk a little bit about our programs. We do have a
15 comprehensive set of programs. Source reduction includes
16 our own compost bins. In a one-day sale, we managed to
17 sell 3,000 of them. They are still currently available to
18 the public.

19 Worm bins, we did a worm bin sale last
20 November where we sold 1,200, and if you do walk around
21 you may see people wearing their Worm Bin World Tour 1998,
22 Peking, Moscow, Katmandu, and San Luis Obispo. All the
23 volunteers that worked for Cal Poly got their T-shirt to
24 wear and you see them every now and then. If you've never
25 seen the inside of a worm bin, that's what it looks like.

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1 The worms turn that into castings in a couple of days.
2 Those are also currently being sold by Farm Supply, a
3 local farm store here in town. They sell them at zero
4 markup. We reduce the price to \$39 and they give a \$5
5 discount coupon for the product. So it really is a unique
6 partnership where we've got a retail outlet willing to
7 sell not only at no markup, but actually at a loss when
8 they give out their coupons.

9 And we have our Shop Earth Smart campaign
10 that's going on this month. If you go to Vons stores,
11 you'll see the literature for materials made with
12 recycling content, similar to the San Francisco Bay Area
13 program.

14 Also doing a comprehensive recycling. All
15 our cities have a comprehensive curbside recycling,
16 includes regular recycling material, green waste and motor
17 oil, and that's supported by various can rates. For
18 example, in Pismo Beach they have what's called a
19 hundred-percent variable. 30-gallon is \$9, a 60-gallon is
20 \$18 and 90-gallon is \$27, while the neighboring city has a
21 slightly less percentage, approximately \$11, \$14, and \$17.
22 And it's typical, but we have again Slo-Co San Luis
23 Garbage includes almost everything -- paper, newspaper,
24 chip board, all bottles and cans, Styrofoam, phone books.
25 Different companies use different bins.

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1 Office paper programs throughout the
2 region -- one of the few places still picking up
3 polystyrene. Three years ago we were paying \$60 a ton for
4 that. We're now paying about \$300 a ton to get rid of
5 that. We need to talk to Al about that. I'm not sure of
6 the economics. The green waste containers are on the
7 right. 60-gallon garbage, you have the option of 30, 60,
8 90.

9 The green waste -- this is Cold Canyon
10 where we're going to go this afternoon, their composting
11 operation. That's one of the two composting facilities in
12 the county that handles all our green waste.

13 Curbside oil pick-up -- that's the curbside
14 oil truck with 15-quart containers on it, goes around and
15 picks it up curbside. We also pick up oil filters
16 curbside. We provide the bags to the garbage company to
17 give to the residents. We've got to give you credit.
18 Your Oil Grant Program has been very instrumental in
19 funding this project. Our philosophy was we're picking up
20 aluminum cans at the curb, and if you properly dispose of
21 an aluminum can, it's not harmful to the environment. If
22 you don't properly dispose of a gallon of motor oil, it
23 certainly is. So if we're going to do curbside aluminum
24 cans, we'd better do curbside used oil. In working with
25 the local haulers, we managed to implement that in every

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1 city.

2 To supplement that program, we do have an
3 education program. We send newsletters to every teacher
4 twice a year to list all the free programs we make
5 available to them. We have 300 classrooms presentations
6 that we do a year and 60 field trips. We provide buses.
7 They go out to see Tom and Al's sorting facility at
8 Slo-Co. They go to the landfill and get a feel for what
9 happens at a recycling facility, what happens at a
10 landfill.

11 We also have a technical assistance branch
12 program where we give out \$40,000 every year to local
13 companies that want to start or expand their recycling
14 business. That's money that comes out of our budget. We
15 have the "Coke Give-Back" campaign. We're asking our
16 residents to take their PET Coke bottles and send it back
17 to Coca-Cola. 18 billion PET soda bottles a year are used
18 in this country. None of them have recycled-content in
19 them. We have the America Recycles (inaudible) buy
20 recycle. They were one of the big sponsors the first
21 year. We turned around and said send that bottle back to
22 Coke and ask them to put recycled plastic back in that
23 Coke bottle. They said in 1990 they were going to do it.
24 They backed away from that commitment, so we're trying to
25 see that happen. Obviously one local jurisdiction can't

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1 do much, but it's been picked up by the National Grass
2 Roots Recycling Organizations and quite a few other
3 places.

4 And finally, household hazardous waste
5 programs -- again using HHW grants from the Waste Board
6 we've managed to locate two permit facilities. One of
7 them is at Cold Canyon landfill. You'll see that again
8 this afternoon. The landfill leases their property for a
9 dollar a year. They staff the receiving of the waste. We
10 come in, bulk it, ship it off. By doing it this way, we
11 cut our costs over a \$100 a unit person to less than \$40.
12 That's the facility itself.

13 Paint -- most of our paint is being
14 recycled now by Achievement House here in town. And
15 finally, a tire program -- some of you may remember the
16 Bracket (phonetic) Tire Pile. It probably predates some
17 of you on the Board. You may recall we had a million
18 tires in this county. Through a grant from the Waste
19 Board for a tire shredder, \$100,000, plus \$25,000 that we
20 provided, Chicago Grade landfill was able to purchase a
21 tire shredder; and then using some cleanup funds from the
22 Waste Board, we were able to clean up that million tires a
23 couple years ago and out of it have a tire facility where
24 we can handle current tires being generated. We currently
25 handle about 250,000 tires at that location.

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1 Other challenges, Camp Roberts on the
2 border between us and Monterey, it's currently tearing
3 down 200 buildings this year, all of those at 60 tons
4 each. By working with them, we are going to divert them
5 from going in into the landfill. And finally, when we do
6 send materials to the landfill, we think we have two very
7 good landfills in our region. Cold Canyon, this is a new
8 cell going at Cold Canyon, being lined, a little later in
9 the process, intake collection.

10 However, we still do have our challenges.
11 We were having problems with meeting diversion. From '97
12 to '98 in the unincorporated county area, according to the
13 waste adjustment formula, the amount of total waste
14 generated did not change. However, more waste went to the
15 landfill that year, in '98 and '97. So the County's
16 unincorporated diversion rate, even though they
17 implemented programs in '98, fell from 24 percent in '97
18 to 10 percent in '98. Very hard to explain to the local
19 jurisdictions why, after implementing programs, they had
20 seen their diversion rate fall by more than 50 percent.

21 In the process of establishing a new base
22 year, which we think will fix a lot of those problems.

23 So that's just kind of a very quick
24 overview. I know you have a full day today, and if you
25 have any questions, I'll be glad to answer them and I do

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1 have -- I'm sure whenever you go to local jurisdictions,
2 they give some goodies. I think we've got something very
3 unique for you here that you probably haven't gotten in
4 any other city. It's "Blast Off" golf tees with the
5 recycling message, and with that your golf ball will go
6 ten yards farther. Unfortunately, in my case it's ten
7 yards farther into the rough, but if you guys are any
8 better than me, it might actually help your game.

9 CHAIRMAN EATON: That's true diversion, I
10 think.

11 THE WITNESS: Absolutely. It's good for a
12 lifetime. Never need to have another wooden golf tee.

13 CHAIRMAN EATON: Okay. Well, thank you
14 very much, Mr. Worrell.

15 Any questions? Mr. Pennington?

16 BOARD MEMBER PENNINGTON: No. I think
17 that's very nice. Thank you. Thank you for the help on
18 the golf course.

19 (Laughter)

20 CHAIRMAN EATON: Senator Roberti.

21 BOARD MEMBER ROBERTI: No. Thank you.

22 CHAIRMAN EATON: I just have one. I notice
23 that you talked about that you were also working with the
24 agricultural community here because of the central coast.
25 Just so that you know, in the central valley we have a

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1 number of jurisdictions that are experiencing some
2 start-up problems. What do you believe is your key to
3 success in working with the agricultural community? I
4 know that the scale is somewhat comparable and you may
5 have some unique problems, but what did you do to sort of
6 work with them to bring around a successful program?

7 MR. WORRELL: We tried to make it very easy
8 on people, whether it's curbside oil pickup at your house,
9 (inaudible) make the difference of disposing of it
10 illegally or not.

11 With the ag people we have a program we're
12 setting up where we'll go and get their 55 gallons of
13 waste oil. As you know, farmers change their oil and put
14 it in a 55-gallon drum. When that drum is full, they
15 can't transport it because now it's a hazardous waste and
16 they're limited to transporting 27 gallons. So we'll go
17 out and we'll pick it up and we'll subsidize the cost and
18 we charge them approximately \$35 to go get that oil from
19 them.

20 And so it's very painless for them. They
21 don't have to draw up manifests. They don't have to worry
22 about dealing with the big waste haulers that want to fill
23 a 200-gallon drum and charge a minimum of a \$100 to make a
24 stop.

25 We tried that approach of making it simple,

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1 easy and affordable for the people and not having a
2 (inaudible). I didn't hire a driver to go do this. We
3 contract with a local person to go out and do it and we
4 actually bought a vehicle through the Oil Grant for him to
5 be able to offer that service and be able to subsidize the
6 cost.

7 CHAIRMAN EATON: Thank you.

8 MR. WORRELL: Thank you.

9 Come together segment of our meeting, any
10 reports from Board Members? Mr. Pennington?

11 BOARD MEMBER PENNINGTON: No. I don't have
12 anything today, Mr. Chairman. Thank you.

13 CHAIRMAN EATON: Mr. Jones.

14 BOARD MEMBER JONES: No.

15 CHAIRMAN EATON: Senator Roberti.

16 BOARD MEMBER ROBERTI: I visited Chiquito
17 landfill last Friday. Interesting to see the cooperation
18 between the landfill composting facility and the local
19 jurisdiction, in that case the County of Los Angeles and
20 city of Santa Clarita.

21 CHAIRMAN EATON: Thank you.

22 Mr. Chandler, welcome back.

23 MR. CHANDLER: Thank you. Good morning,
24 Mr. Chairman and Members. I have a couple of items I
25 would like to update the Board and the audience on this

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1 morning.

2 First of all, that would be an update on
3 the status of the Filbin tire fire located near Wesley,
4 California. As you heard last week, the fire suppression
5 efforts are coming along extremely well. The current
6 estimate is that the fire will be out by this weekend.

7 I was at the site a week ago Friday, and
8 let me briefly describe to you how they're doing it. The
9 crews that have been assembled by USEPA apply a mixture of
10 foam and water and knock down the flames. They then use a
11 giant excavator to scoop out large quantities of tires,
12 six cubic yards at a time, and place them in a large pool
13 of water to cool them. Another excavator then lifts out
14 the drenched tires and stacks them to a site covered with
15 dirt for a few days to prevent them from reigniting. They
16 then are spread out by bulldozers and placed in dump
17 trucks.

18 To date, the cost to the USEPA is exceeding
19 \$2 million, and each day adds another \$100,000 to that
20 total. And a few other highlights regarding the fire
21 tire, Stanislaus County Chief Executive Officer Reagan
22 Wilson is now publicly supporting the idea of resuming
23 operations at the adjacent energy facility as a way of
24 disposing of the remaining unburned tires.

25 As you know, not all the tires can be used

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1 at the energy facility, especially the oversized tires.
2 There was a meeting in Modesto yesterday to discuss ways
3 of moving the tires from the nearby hillside down to a
4 location where they would be available for burning by the
5 energy facility during the upcoming rainy season.

6 Work is already under way on the
7 winterization project that the Board approved last week.
8 This project will prevent storm runoff from washing
9 through the burned area and carrying off oil and heavy
10 metals produced by the burning tires.

11 Finally, on October 20th, Chairman Eaton
12 received a letter from Dennis Cordoza asking the Chair on
13 behalf of the Board to participate in the first hearing of
14 the Assembly Select Committee on Waste Tire Disposal.
15 That hearing will be focused on the circumstances
16 surrounding the Filbin tire fire currently burning at
17 Wesley and is scheduled for October 29th in Patterson,
18 California.

19 Second of all, I want to just brief the
20 Members. As you are aware, we're hosting a downlink site
21 for USEPA's National Waste-Wise Forum on November 9th.
22 SMUT is joining us as hosts in Sacramento, and Secretary
23 Eileen Adams will be participating at the downlink site at
24 the SMUT headquarters. Board staff is targeting its
25 effort at state agencies including both recycling

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1 coordinators and procurement officers.

2 And that, Mr. Chairman and Members,
3 concludes my report for this morning.

4 CHAIRMAN EATON: Okay.

5 MR. CHANDLER: Questions?

6 BOARD MEMBER PENNINGTON: Mr. Chairman.

7 CHAIRMAN EATON: Mr. Pennington.

8 BOARD MEMBER PENNINGTON: Mr. Chandler, you
9 said they're loading the tires into a dump truck. Then
10 what are they doing with them?

11 MR. CHANDLER: At this point, they are
12 still basically holding the tires there. They have not
13 actually begun transporting them off-site and taking them
14 either to a landfill for disposal. I think they see that
15 their effort, their charge is to put the tire fire out.
16 There's still a significant quantity of material at the
17 site that will then require an ultimate remediation plan.

18 I think it's important -- and your question
19 is a good one -- that we don't assume that with the tire
20 fire being extinguished, that we have somehow completed
21 the efforts that are going to be required at that site.
22 There still needs to be removal of all of the debris, all
23 the leftover metal, et cetera. It's really a fire
24 suppression effort that's under way at this time.

25 BOARD MEMBER PENNINGTON: What is staff's

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1 feelings about getting control of those tires on the site
2 and burning whatever can be burned by --

3 MR. CHANDLER: I know it's this Director's
4 position that the Board has directed that remediation
5 effort to be carried out through our enforcement order by
6 Mr. Filbin, the responsible party. So we are still
7 encouraging all parties to recognize that the responsible
8 party is charged with bringing those tires either off-site
9 or to an approved plan by this Board to remove them, the
10 unburned tires.

11 So while I think there's a lot of
12 speculation and encouragement that other parties step in
13 and take responsibility, it's been my position to date
14 that is still the order of this Board and that we would
15 expect Mr. Filbin to deal with the oversized tires as well
16 as removal of the unburned tires in accordance with the
17 plan approved by this Board.

18 BOARD MEMBER PENNINGTON: Will our attorney
19 support that position too, that Mr. Filbin is definitely
20 the responsible party and should continue to be looked
21 upon. Thank you.

22 BOARD MEMBER JONES: Mr. Chairman.

23 CHAIRMAN EATON: Mr. Jones.

24 BOARD MEMBER JONES: I have a question on
25 that. On our cleanup and abatement order that we held and

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1 he tried to appeal, he had a condition to come up with a
2 remediation plan in 30 days, 60 days?

3 MR. CHANDLER: He was asked to submit a
4 remediation plan 20 days after the Board's approval of the
5 order.

6 BOARD MEMBER JONES: And we haven't seen
7 that.

8 MR. CHANDLER: We got a very sparse plan
9 that spoke in general terms to how he would deal with
10 remediation of the on-site unburned tires. If you recall,
11 however, critical to that order was a demonstration of
12 financial assurances that that plan would be carried out,
13 and that was not spoken to in his response to the Board.
14 So I have since followed up with additional correspondence
15 asking for the demonstration of financial assurances, as
16 well as additional technical questions that need to be
17 amplified on, so that we understand exactly what is the
18 proposal that is being brought forward to burn or
19 remediate the unburned tires. He's really deficient in
20 two areas. We've since corresponded on both of those
21 points, and I would expect an answer very shortly or we
22 will have to step in and discuss our legal options.

23 BOARD MEMBER JONES: Not to belabor this,
24 but we issued the cleanup and abatement. He appealed it.
25 How long after the appeal did this thing catch on fire,

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1 that we didn't uphold this appeal, the appeal of the
2 cleanup and abatement?

3 MR. CHANDLER: I believe the fire took
4 place on September 22nd. The date of our hearing was
5 September 9th, I believe. I know after the hearing I sent
6 a letter on the 13th to the County Fire Department
7 indicating that we felt the site had been abandoned. So
8 it was approximately two weeks after the Board's
9 ratification of that order.

10 BOARD MEMBER JONES: He had three weeks to
11 put together the cleanup and abatement order.

12 MR. CHANDLER: Any other questions? Thank
13 you.

14 CHAIRMAN EATON: Thank you, Mr. Chandler.

15 Members, just a couple of announcements.
16 Item 36 relating to the Santa Maria Transfer Station has
17 been pulled from today's agenda and will be continued to
18 the November 15th, 16th and 17th Board meeting.

19 During consent calendar, my understanding
20 is we have just three items that have been placed on
21 consent calendar. Those items are Item Numbers 33, 34,
22 and 35.

23 BOARD MEMBER PENNINGTON: Mr. Chairman.

24 CHAIRMAN EATON: Members, pull any of those
25 matters or --

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1 BOARD MEMBER PENNINGTON: I'll move to
2 adopt the consent calendar.

3 CHAIRMAN EATON: Okay.

4 BOARD MEMBER JONES: Second.

5 CHAIRMAN EATON: Mr. Pennington moves,
6 Mr. Jones seconds that we adopt the consent calendar
7 consisting of Item Numbers 33, 34 and 35.

8 Madam Secretary, please call the roll.

9 BOARD SECRETARY: Board Members Jones.

10 BOARD MEMBER JONES: Aye.

11 BOARD SECRETARY: Pennington.

12 BOARD MEMBER PENNINGTON: Aye.

13 BOARD SECRETARY: Roberti.

14 BOARD MEMBER ROBERTI: Aye.

15 BOARD SECRETARY: Chairman Eaton.

16 CHAIRMAN EATON: Aye.

17 Mr. Chandler, I do have one question. I
18 have a note that Items Number 39 and 42 on today's agenda
19 were either going to be taken up in the Executive
20 Director's report, which I don't think they were, or are
21 they going to continue? We've got some time. Would you
22 mind while we're going to see if they're going to be on
23 today's agenda? There was just some confusion whether
24 they would be handled in your report or actually be
25 handled as part -- I see someone, Ms. Karin Fish, saying

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1 they were pulled. So I will add -- is that correct?

2 MR. CHANDLER: That's correct. What I
3 would like to do is if I could, Mr. Chairman, update the
4 Board and my opening remarks tomorrow morning briefly on
5 the items that were pulled. I don't have -- and I'm
6 getting information right now in particular on Item 42,
7 but I believe you're correct. The thinking was they were
8 short in nature and I could cover them in opening remarks
9 that I could provide tomorrow.

10 CHAIRMAN EATON: So with regards to Item 39
11 and 42, rather than having them pulled, we'll carry them
12 over to tomorrow morning and see what the status is.

13 MR. CHANDLER: Very good. Thank you.

14 CHAIRMAN EATON: Okay. That brings us to
15 new business on today's agenda, Item Number 2.

16 For those of you in the audience, my
17 understanding is there are some local jurisdictions which
18 have encountered some transportation problems due to the
19 fog. I know of one jurisdiction currently. If for any
20 reason staff or someone that may be in the part of a local
21 jurisdiction whose other colleagues have not shown up but
22 are in transit, would you let us know so we can adjust our
23 agenda and give them time to be heard. I know of one
24 jurisdiction, City of Lakewood, which has I understand
25 landed in Paso Robles and is now trying to get back into

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1 the air and land in San Luis Obispo and then will be heard
2 later in the agenda. If there are any of those, I would
3 appreciate knowing that.

4 Gentlemen, are we almost ready? All right.
5 Take a second.

6 MR. LEARY: Good morning, Mr. Chairman,
7 Members of the Board. My name is Mark Leary speaking on
8 behalf of the Division of Diversion, Planning, and Local
9 Assistance. Today we look to draw the final chapter on
10 the fairly large book called the '95-'96 biennial review.
11 Although there may be a minor epilogue, this book is not
12 going to conclude with a dramatic climax, although there
13 may be a little drama here today.

14 CHAIRMAN EATON: Is it a whodunit or who
15 didn't?

16 (Laughter)

17 MR. LEARY: Like past presentations we've
18 had, we've condensed 43 jurisdictions into ten
19 presentations. I also offer -- ask the Board's indulgence
20 to introduce a couple of corrections we need to make as we
21 go through the items.

22 Firstly, Agenda Items 2 through 4,
23 consideration of standard biennial review for the
24 jurisdictions of Contra Costa County unincorporated, San
25 Fernando, Soledad, Pacifica, Isleton, Apple Valley, Sierra

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1 County Regional Agency, and Rolling Hills Estates.

2 I've been asked to specifically mention
3 that there are representatives from Apple Valley today
4 should you have any questions on the jurisdiction and
5 there may be others too, but I know specifically about
6 Apple Valley.

7 Staff is requesting that the Board approve
8 the biennial review items described in Items 2 through 4
9 and accept staff findings that the jurisdictions are
10 either making progress in implementing their Source
11 Reduction and Recycling Elements and meeting the diversion
12 requirements or are making a good faith effort to comply
13 with the Source Reduction Recycling Element implementation
14 as indicated in the staff analysis.

15 That concludes my presentation on these
16 items.

17 BOARD MEMBER PENNINGTON: Mr. Chairman.

18 CHAIRMAN EATON: Mr. Pennington.

19 BOARD MEMBER PENNINGTON: I'll move
20 adoption of Resolutions 1999-527 through 1999-529.

21 BOARD MEMBER JONES: I'll second.

22 CHAIRMAN EATON: All right.

23 Mr. Pennington moves and Mr. Jones seconds
24 that we adopt Resolutions 1999-527, 1999-528, and
25 Resolution 1999-529.

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1 Madam Secretary, would you please call the
2 roll.

3 BOARD SECRETARY: Board Members Jones.

4 BOARD MEMBER JONES: Aye.

5 BOARD SECRETARY: Pennington.

6 BOARD MEMBER PENNINGTON: Aye.

7 BOARD SECRETARY: Roberti.

8 BOARD MEMBER ROBERTI: Aye.

9 BOARD SECRETARY: Chairman Eaton.

10 CHAIRMAN EATON: Aye.

11 Agenda Item Number 5.

12 MR. LEARY: Agenda Item Number 5 concerns
13 standard biennial review for the City of Murietta.

14 Staff is requesting that the Board accept
15 the staff findings that the City of Murietta is making
16 progress in implementing their Source Reduction Recycling
17 Element and are meeting the diversion requirements and
18 that the biennial review be approved.

19 That concludes my presentation.

20 CHAIRMAN EATON: For those jurisdictions,
21 just to remind you, I know that some are here to get into
22 it. If you still do want to say a few words, if you do, I
23 just remind you that there are speaker slips outside the
24 door, if you would like to bring them forward.

25 Mr. Jones.

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1 BOARD MEMBER JONES: Mr. Chairman, I'm
2 going to move adoption of Resolution 1999-530. I do want
3 to say for the record City of Murietta has contacted us.
4 This was a new city that was formed after 1990. So they
5 had to cull out information from an existing countywide
6 program, so there is a -- they've well exceeded the 25
7 percent. They're at 28 at the minimum. They could be as
8 high as 51. The city -- I got a phone call yesterday on
9 the way down here that the agency on its own is going to
10 do a new base year generation study using information from
11 1999 just to quantify more exactly those numbers as they
12 go into the year 2000. And I wanted that on the record,
13 Mr. Chairman.

14 BOARD MEMBER PENNINGTON: I'll second.

15 CHAIRMAN EATON: All right. I believe
16 Mr. Jones moves and Mr. Pennington seconds we adopt
17 Resolution 1999-530.

18 Without objection, substitute the previous
19 roll call. Hearing no objection, so shall be the order.

20 All right. Next cluster of Agenda Items, 6
21 through 11.

22 MR. LEARY: The next cluster concerns
23 Agenda Items 6 through 11, consideration of new base year
24 for the jurisdictions of Agoura Hills, Hidden Hills,
25 Manhattan Beach, Santa Fe Springs, South Gate and Temple

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1 City.

2 I ask the Board for their indulgence on a
3 minor correction. On Agenda Item Number 10 on page 10-4,
4 paragraph 4, line 4, there is a mention of Santa Fe
5 Springs. That should be South Gate. That correction has
6 no effect on the biennial review status.

7 Staff is requesting that the Board approve
8 the requested base year change described in Agenda Items 6
9 through 11 and accept the findings that the jurisdictions
10 are making progress in implementing their Source Reduction
11 Recycling Elements and are meeting the diversion
12 requirements.

13 That concludes my presentation.

14 BOARD MEMBER PENNINGTON: Mr. Chairman.

15 CHAIRMAN EATON: Mr. Pennington.

16 BOARD MEMBER PENNINGTON: I'll move
17 adoption of Resolutions 1999-531 through 1999-536.

18 BOARD MEMBER JONES: I'll second.

19 CHAIRMAN EATON: And I'll second those
20 motions. Mr. Pennington moves and Mr. Eaton seconds that
21 we adopt Resolution 1999-531 through Resolution 1999-536.

22 Without objection, substitute the previous
23 roll call. Hearing no objection, so shall be the order.

24 Mr. Leary, before we begin, I notice you
25 gave the correction sheet here. Do any of those

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1 corrections affect anything that are in the resolutions or
2 are they just all part of the text of the work-up of the
3 agenda items?

4 MR. LEARY: They are all in the text of the
5 agenda items. They do not affect the resolutions in any
6 way.

7 CHAIRMAN EATON: Thank you.

8 MR. LEARY: Next cluster is concerning
9 Agenda Items 12 through 17, consideration of base year
10 corrections for the jurisdictions of South Pasadena,
11 Whittier, Colton, Hesperia, Highland, San Bernardino
12 County unincorporated.

13 Staff is requesting that the Board approve
14 the base year corrections described in these Agenda Items
15 12 through 17 and accept staff findings that the
16 jurisdictions are making progress in implementing their
17 Source Reduction and Recycling Elements and are meeting
18 the diversion requirements.

19 That concludes my presentation.

20 BOARD MEMBER JONES: Mr. Chairman.

21 CHAIRMAN EATON: Mr. Jones.

22 BOARD MEMBER JONES: I'll move adoption of
23 Resolutions 199-537, 538, 539, 540, 541 and 542.

24 CHAIRMAN EATON: I'll second those
25 resolutions.

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1 Mr. Jones moves and Mr. Eaton seconds we
2 adopt Resolutions 1999-537 through 1999-542.

3 Without objection, we'll substitute the
4 previous roll call. Hearing no objection, so shall be the
5 order.

6 MR. LEARY: Mr. Chairman, the next cluster
7 concerns Agenda Items 18 through 20 and Number 27,
8 consideration of base year corrections via the L.A. Fix
9 method for the jurisdictions of Burbank, Cudahy, Glendora,
10 Palos Verdes Estates, West Hollywood, West Covina,
11 Cerritos, Lynwood, Maywood and Diamond Bar.

12 You'll notice on your errata sheet Diamond
13 Bar has a minor correction on page 20-2.

14 Staff is requesting that the Board approve
15 the base year corrections described in Agenda Items 18-20
16 and Number 27 and accept staff findings that the
17 jurisdictions are either making progress in implementing
18 their Source Reduction Recycling Elements and meeting the
19 diversion requirements or are making a good faith effort
20 to comply with the Source Reduction and Recycling Element
21 implementation requirements as indicated in the staff
22 analysis.

23 That concludes my presentation.

24 BOARD MEMBER PENNINGTON: Mr. Chairman.

25 CHAIRMAN EATON: Mr. Pennington.

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1 BOARD MEMBER PENNINGTON: I'll move
2 adoption of Resolutions 1999-543 through 1999-545 and
3 Resolution 1999-552, with the appropriate findings to
4 indicate that the Board approves the requested base year
5 correction, accepts the staff findings that the
6 jurisdictions are making progress in implementing the SRRE
7 and meeting the diversion requirements or is making a good
8 faith effort to comply with the SRRE implementation
9 requirements as indicated in the staff analysis, and is
10 not issuing a compliance order.

11 BOARD MEMBER JONES: I'll second.

12 CHAIRMAN EATON: Mr. Pennington moves,
13 Mr. Jones seconds that we adopt Resolutions 1999-543
14 through 545, as well as Resolution 1999-552.

15 Without objection, we'll substitute the
16 previous roll call. Hearing no objection, so shall be the
17 order.

18 BOARD MEMBER JONES: It's a pretty quiet
19 room so far.

20 CHAIRMAN EATON: Mr. Leary.

21 MR. LEARY: Yes, Mr. Chairman. Thank you.

22 The next cluster concerns Agenda Items
23 Number 21 and 22, consideration of reporting and/or base
24 year corrections for the jurisdictions of Monterey Park
25 and Rolling Hills. Staff is requesting the Board approve

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1 the base year and/or reporting year corrections described
2 in these agenda items and accept staff findings that the
3 jurisdictions are making progress in implementing their
4 Source Reduction and Recycling Elements and are meeting
5 the diversion requirements; or are making a good faith
6 effort to comply with the Source Reduction Recycling
7 Element implementation as indicated in the staff analysis.

8 You'll note there is a minor correction on
9 Agenda Item 22 on page 22-2. That concludes -- excuse me,
10 and on page 22-4, neither of which affect our
11 recommendation on the biennial review status.

12 That concludes my presentation.

13 CHAIRMAN EATON: I'll move that we adopt
14 Resolution 1999-546 and Resolution 1999-547 with the
15 appropriate findings to indicate that the Board approves
16 the requested base year and/or reporting year correction
17 and accepts the staff finding that the jurisdictions are
18 making progress in implementing its SRRE and/or making a
19 good faith effort to comply with the SRRE implementation
20 requirements as indicated in the staff analysis, and is
21 not issuing a compliance order.

22 BOARD MEMBER PENNINGTON: Second.

23 CHAIRMAN EATON: Mr. Eaton moves and
24 Mr. Pennington seconds that we adopt Resolutions 1999-546
25 and 1999-547.

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1 Without objection, we'll substitute the
2 previous roll call. Hearing no objection, so shall be the
3 order.

4 Mr. Leary.

5 MR. LEARY: Mr. Chairman, Agenda Items 23
6 through 25 are consideration of base year corrections for
7 the jurisdictions of Lomita, Norwalk and Walnut.

8 Staff is requesting the Board accept the
9 findings that the jurisdictions are making progress in
10 implementing their source recycling reduction element
11 diversion requirements but cannot determine they are
12 meeting the diversion requirements due to incalculable or
13 inaccurate data, and that the attached compliance orders
14 be issued.

15 That concludes my presentation.

16 CHAIRMAN EATON: We have a few speakers.
17 Mr. Michael O'Connor from the City of Lomita.

18 MR. O'CONNOR: Mr. Chairman and Members of
19 the Board, I had nothing by way of formal presentation to
20 offer but would like to answer questions and assure you we
21 are trying to move forward and come into compliance.

22 CHAIRMAN EATON: Thank you. I think it's
23 just a matter of getting the numbers straight is my
24 understanding.

25 MR. O'CONNOR: That's exactly right.

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1 CHAIRMAN EATON: Kind of like a Scrabble
2 board, and I think if you sit down and put them together,
3 you'll be just fine. That's my understanding. Is it your
4 understanding as well?

5 MR. O'CONNOR: Thank you, Mr. Chairman.
6 Yes, it is. We would like to thank Zane Poulson in
7 particular for working with us and we think we can come up
8 with a solution that will meet everybody's objectives.

9 CHAIRMAN EATON: Thank you.

10 BOARD MEMBER JONES: Mr. Chairman.

11 CHAIRMAN EATON: Mr. Jones.

12 BOARD MEMBER JONES: Our staff has told you
13 that entering a compliance order, you can get out of it
14 real quick once the work is done. They've assured you
15 this isn't some stigma, it's just a formalized way of
16 getting this thing finalized and then moving on. We have
17 instructed staff that as soon as there's a comfort level
18 between the city and staff, to get that thing on the very
19 next agenda so that we can move on, and I hope that you
20 are comfortable.

21 MR. O'CONNOR: We're very clear on that and
22 we appreciate the corrections.

23 Thank you.

24 BOARD MEMBER JONES: Great. Thank you.

25 CHAIRMAN EATON: I believe Mr. Rufus Young

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1 is available, also on behalf of the City of Lomita.

2 Mr. Young, welcome.

3 MR. YOUNG: Thank you very much. I'm Rufus

4 C. Young, Junior, appearing for the City of Lomita, and

5 I'll simply incorporate by reference Mr. O'Connor's

6 comments. I'll be happy to try to answer any questions

7 you might have, if there are any.

8 CHAIRMAN EATON: Any questions?

9 Thank you, Mr. Young.

10 MR. YOUNG: Thank you.

11 CHAIRMAN EATON: I also have Ms. Theresa

12 Devoy from the City of Norwalk regarding Agenda Item

13 Number 24, which is in this cluster.

14 MS. DEVOY: Good morning and thank you for

15 the opportunity for a few moments of your time. Basically

16 I'm not here to dispute on behalf of the City of Norwalk

17 that our numbers are not in compliance with AB 939. We're

18 very aware of that, and we're very disappointed and very

19 concerned that our numbers aren't where they should be in

20 consideration that we have implemented our programs as

21 outlined in the SRRE.

22 We did most recently just implement two new

23 programs in 1998 which were the commercial MRFing program

24 and the residential green waste program. We have also

25 just recently acquired a contract with a recycling

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1 consultant who will be reviewing our base year information
2 and reevaluating our numbers to determine whether or not
3 it's a miscalculation that's creating the problem or
4 whether or not there's something we can do to enhance our
5 programs to increase our numbers. And we will also be
6 working with our haulers to reevaluate the current
7 programs that we have and to determine if there's
8 something we can do to expand those programs and increase
9 the numbers.

10 The one thing I would like to ask the Board
11 today, though, is that if you do issue a compliance order
12 against the City of Norwalk, that you may consider
13 extending the primary report date from May through
14 September or December of the year 2000 in order to provide
15 the City with an opportunity to evaluate the new
16 information that we will be receiving from the newly
17 implemented programs in 1998, as we expect that those
18 programs will have a significant impact and increase on
19 our numbers.

20 With that, I would like to conclude and say
21 that we are looking forward to working closely with the
22 Board staff to resolve this problem. We're very
23 frustrated that we're not where we need to be, and like I
24 said, we're looking for the help from your staff.

25 Thank you.

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1 BOARD MEMBER JONES: Mr. Chairman.

2 CHAIRMAN EATON: Mr. Jones.

3 BOARD MEMBER JONES: Norwalk and City of
4 Lomita, is there an issue to disposal reporting, some
5 waste is being assigned to your jurisdictions?

6 MS. DEVOY: From what I understand, the
7 accuracy of the numbers from the landfills are not where
8 they need to be, and there is a question as to whether or
9 not haulage or tonnage is coming in from other areas and
10 it's not being tracked appropriately.

11 We're kind of at a loss as to what we can
12 do to address that.

13 BOARD MEMBER JONES: One of the reasons --
14 because I know the folks from Lomita are getting ready to
15 leave and I didn't want them to leave without hearing
16 this.

17 MS. DEVOY: Right.

18 BOARD MEMBER JONES: We're having a
19 disposal reporting workshop in --

20 CHAIRMAN EATON: It's an agenda item.

21 MR. JONES: -- on November 17 in Sacramento
22 to talk about, through a series of panels, how we can
23 better make that system work and I think it's critical for
24 a lot of the cities, especially in the southern California
25 basin, that waste, because of that, because of the nature

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1 of the lines, can get assigned to an awful lot of
2 different jurisdictions that didn't know it existed. And
3 any participation that you could afford, whether it's
4 input at the end of the day or whatever, is going to be
5 valuable, not only from a learning standpoint for us, but
6 for you.

7 Maybe all of us working together can figure
8 out a way to make that work so you're not assigned waste
9 that dropped your numbers unexpectedly. I hope there is
10 an opportunity to participate in some form or at least
11 talk to our staff about it.

12 MS. DEVOY: We definitely appreciate that.
13 All the help we can get in making those numbers accurate
14 will be very beneficial, not only to us but the other
15 jurisdictions, from what I understand, in southern
16 California.

17 BOARD MEMBER JONES: Right. Thank you.

18 MS. DEVOY: Thank you.

19 CHAIRMAN EATON: Thank you.

20 BOARD MEMBER JONES: Can I ask a question
21 of staff?

22 CHAIRMAN EATON: Mr. Jones.

23 BOARD MEMBER JONES: The date, I know all
24 the compliance orders say May of 2000. The request to be
25 able to use that information, have that information and be

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1 able to use it and figure that's going to take another
2 four months, how do we address those types of issues?

3 MR. LEARY: I think there's -- the LEA can
4 help me out here, but I think there's an opportunity under
5 the order to request an extension during the course of it,
6 continue to collect the data, and come to find out that we
7 need more time, we can certainly do it in process or --

8 BOARD MEMBER JONES: All right. So that
9 will take care of the order. Thank you.

10 CHAIRMAN EATON: Ms. Devoy, did you hear
11 that?

12 MS. DEVOY: Yes. Thank you.

13 CHAIRMAN EATON: Is that satisfactory with
14 you, that process?

15 MS. DEVOY: We would like the Board to
16 (inaudible) that up front, but if that's the process, we
17 will certainly go through with that as long as the Board
18 will hopefully approve that during -- when we're going
19 through the process.

20 MR. LEARY: Let me ask Elliott. Is that a
21 formal Board action or can we do that in administrative --

22 MR. BLOCK: Elliott Block for the Legal
23 Office. The compliance order provides -- it says the
24 Board or its designee can do that. It's up to the Board.
25 You could wait to see what the information provides so

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1 that might be a better sense of what that extension should
2 look like. You could theoretically delegate the ability
3 to grant that extension to either Ralph or to the Deputy
4 Director, I suppose. That's your choice.

5 CHAIRMAN EATON: My understanding is that
6 we will probably see some update with regard to these
7 compliance orders after they have been issued; is that
8 correct?

9 MR. SCHMIDLE: February, I think. February
10 1st they're required to report to us.

11 CHAIRMAN EATON: Okay. And at that time
12 in February we'll get an update, and perhaps you can look
13 into that and see what the progress is, not only the City
14 of Norwalk, which I know and the Senator knows as well has
15 some unique makeup in that community that presents it with
16 some other problems that may not be at first glance
17 apparent on the surface, but if that is helpful, we can
18 find out in February. Okay? All right.

19 I have one more speaker, Jeffrey C. Parker
20 from the City of Walnut regarding Item Number 25, which is
21 part of this cluster as well.

22 Welcome, Mr. Parker.

23 MR. PARKER: Good morning and thank you to
24 the Chairman and Members of the Board. We've submitted a
25 letter to you, so I'm not going to go through the whole

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1 letter. I'll keep it brief here.

2 Basically, the City of Walnut understands
3 the issues with regards to the compliance. We are also
4 here to inform the Board that one of the concerns that we
5 have is that reporting data, the generation information.
6 As I've indicated in the letter to you, one of the
7 concerns that we have is there's area beyond our city
8 boundaries which has approximately -- if you look at
9 businesses and residences -- about 35 percent that have
10 Walnut addresses and zip codes. And the concern that we
11 have is that generation that is coming from that area is
12 being counted as our generation, and obviously if that is
13 occurring, it's going to be very difficult to meet our
14 numbers.

15 We are close in meeting our numbers. We
16 have implemented in 1998, one of the things you have not
17 seen, a fully automated system now for all of our
18 operations, so we believe that our numbers are going the
19 right direction. The problem is how do we address this
20 major issue outside our boundaries that have Walnut
21 addresses. It's a concern and we're going to have to work
22 with it.

23 We will be there on the 17th. I appreciate
24 the fact that you are going to have that. I would like to
25 be on the panel, if there is a panel, to discuss some of

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1 those issues and maybe suggestions that we might have and
2 look at that because it is a concern for us. So I do
3 appreciate that.

4 Those are really our major two points.
5 Again, I want to reiterate the fact that your staff has
6 been great working with us. We'll continue to work with
7 them to come up with a new generation number which we
8 think will address a big part of our issue, too. So I
9 think we're going in the right direction, and if we can
10 address this outside generation, we're going to get there.

11 Appreciate the time and opportunity to
12 speak.

13 CHAIRMAN EATON: If you'll see either
14 Mr. Leary or Mr. Schmidle perhaps during the break,
15 Mr. Parker, we may be able to get you hooked up with what
16 the items are and the different panels because it's going
17 to cover a number of different segments of the disposal
18 reporting system.

19 All right. I have no other speaker slips,
20 so that will bring us to --

21 BOARD MEMBER JONES: Mr. Chairman.

22 CHAIRMAN EATON: Mr. Jones.

23 BOARD MEMBER JONES: I'm going to make the
24 motion. I move that we -- I move adoption of Resolutions
25 1999-548, 549 and 550, with the appropriate findings to

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1 indicate that the Board does not approve the requested
2 base year correction, accepts staff finding that the
3 jurisdiction is making progress but cannot determine
4 they're meeting the diversion requirement due to
5 incalculable or inaccurate data, and is issuing a
6 compliance order.

7 BOARD MEMBER PENNINGTON: I'll second.

8 CHAIRMAN EATON: Mr. Jones moves and
9 Mr. Pennington seconds that we adopt Resolutions 1999-548
10 through 1999-550.

11 Without objection, we'll substitute the
12 previous roll call. Hearing no objection, so shall be
13 ordered.

14 Next cluster, and this cluster includes the
15 City of Lakewood, which I previously mentioned is having
16 problems transportation-wise getting here, so we will not
17 take that up as part of this cluster. They should be here
18 sometime shortly, I would imagine in the next hour or so.
19 When they arrive, have a few seconds to sort of catch
20 their breath, and we'll take it up out of order. For
21 purposes of this cluster, we will be taking up the
22 jurisdictions of Claremont and Baldwin Park.

23 MR. LEARY: Thank you, Mr. Chairman.

24 This cluster then concerns Agenda Items 26
25 and 28 regarding reporting year corrections or L.A. Fixes

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1 for the jurisdictions of Claremont and Baldwin Park.

2 Staff is requesting that the Board accept
3 the findings that the jurisdictions are making progress in
4 implementing their Source Reduction Recycling Element
5 diversion requirements but cannot determine that they are
6 meeting their diversion requirements due to incalculable
7 or inaccurate data, and the attached compliance orders be
8 issued for jurisdictions Claremont and Baldwin Park only.

9 That concludes my presentation.

10 CHAIRMAN EATON: All right. I'm sorry,
11 Mr. Jones.

12 BOARD MEMBER JONES: Okay. Go ahead.

13 CHAIRMAN EATON: Any questions of staff? I
14 just had one speaker.

15 BOARD MEMBER JONES: If it's the City of
16 Claremont, good, because I had a letter I wanted to talk
17 about.

18 CHAIRMAN EATON: Mark Harmon from the City
19 of Claremont.

20 BOARD MEMBER JONES: That would be the
21 letter.

22 MR. HARMON: I was afraid of that. Good
23 morning, Mr. Chair and Members of the Board.

24 First, let me just say that we will
25 continue -- the City of Claremont accepts the motion

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1 today, and we will continue to work with the Office of
2 Local Assistance. I like the term, I think Chair Eaton
3 said it. Our numbers are kind of on the Scrabble board.

4 Much to reiterate what another speaker
5 said, we feel we have implemented many, many programs.
6 We're very proud of our programs, of our sanitation system
7 in the City of Claremont. If good faith applies, I think
8 it can definitely apply to the City of Claremont.

9 I think we have gone on the cutting edge in
10 many ways with our variable rate programs, our financial
11 incentives for recycling, our college programs. The
12 college population in the city of Claremont makes up
13 approximately 15 percent of our population. So I think
14 we've been out there, ahead of the game on some of those
15 things.

16 We have identified -- we've worked closely
17 with the Office of Local Assistance. We have identified
18 several problems. We do feel they're numerical problems.
19 We feel they're base year problems. One of them happens
20 to be what I just mentioned, the Claremont Colleges. I am
21 looking at the original numbers in the SRRE. The college
22 waste flow was completely left off. So we feel we can
23 identify some of these areas with Office of Local
24 Assistance. We would like to do that, continue to move
25 forward and come back to the Board if that's the Board's

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1 desire today.

2 I would like to mention one thing. I was
3 at the meeting when Board Member Jones mentioned that kind
4 of weight per resident, kind of eyeball test that we like
5 to look at, keeping in mind that the industry standard is
6 approximately eight pounds per person per day. When you
7 take the adopted tonnage in the City of Claremont's SRRE,
8 you come up with approximately five pounds per person per
9 day. Clearly there's an error in our calculations for the
10 base year.

11 And so we feel we've done the programs, we
12 now feel we're working closely. I've made special trips
13 up to visit the gentleman immediately to my right. We've
14 put forth the effort. We've put forth the programs.
15 We've documented all of these efforts. We are one of
16 seven -- I think there's seven cities of the 88 cities in
17 Los Angeles County. We're one of seven that continue to
18 provide our own municipal waste collection. That gives us
19 the benefit of looking closely at our numbers. We control
20 our own destiny, so to speak.

21 So with those comments, I'd be happy to
22 answer any questions.

23 CHAIRMAN EATON: Mr. Jones.

24 BOARD MEMBER JONES: Mr. Chairman, thank
25 you.

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1 Mr. Harmon, thank you. I read your letter.
2 You and I had a phone conversation that I've put in the ex
3 parte file. I'm going to get into that in just a second,
4 but you're saying that the time this compliance order
5 gives you to kind of finalize those numbers is something
6 that you can accept, you can use that to your benefit?

7 MR. HARMON: I believe we can use it to our
8 benefit only because I think, as we discussed on the
9 telephone, as I put in the letter to the entire Board, you
10 know, I think we can pinpoint some definite anomalies in
11 some of the accounting, the disposal reporting system. I
12 think staff for the City of Claremont has worked very hard
13 to identify these.

14 So yes, sir, given the time, I think we can
15 work with your staff and to come back and say this is what
16 we found and this is where we are today. I do think it's
17 worth noting that with the base year adjustment, and even
18 without it as a matter of fact, clearly every year, even
19 using the Board's numbers, clearly we are on an upwards
20 kind of scale there, where every year we are improving
21 dramatically.

22 Again, I stand behind the good faith. Yes,
23 I think we ran out of time as far as today to try and
24 solve some of these problems. Some of my colleagues in
25 the audience would probably get mad at me if I took the

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1 rest of the day to try and do that. Again, I appreciate
2 the work with staff, and again, I think given the time
3 would it be a benefit to the city? Yes, because I think
4 we can come back in whatever time the Board would like to
5 see us back and clearly show not only have we met the good
6 faith effort, but we've accomplished it in the numerical
7 sense also.

8 BOARD MEMBER JONES: Great. One of the
9 things I wanted to let my colleagues know about our phone
10 conversation was that in '95, when they were tearing down
11 a couple of dorms at Claremont, they had been given a
12 sales pitch by Reliance Pit, New Way and Peck Road, that
13 any of those materials that went out of that facility
14 would go into one of those mine sites and would be counted
15 as diversion, and they don't. They count as disposal,
16 unless they're using them for structure or they don't
17 count at all, whatever the law says now. But I asked
18 Mr. Harmon. I said, "Okay. You were sold a program and
19 it didn't work to your benefit. What are you going to do
20 now with the C&D that's generated? What's your next
21 step?" And he said, "We've already done that. We have a
22 rule now that if you pull out a building permit in our
23 city, you have to take that material to one of two C&D
24 recycling facilities," Edco in Fontana -- and what was the
25 other one?

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1 MR. HARMON: I believe the other one was
2 Burrtech in Fontana.

3 BOARD MEMBER JONES: Okay. And that in my
4 mind was how you would have rectified a big piece of the
5 problem. To see you being proactive in identifying that
6 gave me a sense of that's what I would like to see in
7 compliance orders, is that people understand an issue and
8 then move forward to rectify it in the future. It kind of
9 had me leaning towards darn good faith, but I think --

10 MR. HARMON: You can lean that way and that
11 would be fine.

12 (Laughter)

13 BOARD MEMBER JONES: I think we're going to
14 get you here so much quicker, you know. But I did want to
15 say that because that's the way this thing should work.
16 When you identify something and find the solution, that's
17 all this is about.

18 The numbers are indicators for us. They're
19 a huge indicator, but it's the programs that we are
20 willing to put the things in place. That gave me a sense
21 of achievement, that a city has achieved the mandate.

22 MR. HARMON: Right. And I think that's
23 where we're coming from. We also, I believe as the
24 gentleman from the City of Walnut, in 1997 implemented a
25 green waste and variable rate system. We're fully

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1 automated curbside commingled, recyclables and green
2 waste. Right now clean material, we're diverting 62
3 percent of our residential wastestream to either the MRF
4 for recycling or the green waste facility for alternative
5 daily cover. So 62 percent of the residential waste flow,
6 and then we play with the numbers and come up with the
7 negative 12 or 14 or 10 percent.

8 It is hard. It's hard to swallow and we've
9 been standing at a podium just like this in front of our
10 council, getting these programs pushed forward with the
11 understanding we're achieving the goal.

12 We welcome the opportunity to come back and
13 again address the Board on what we've done.

14 CHAIRMAN EATON: Thank you, Mr. Harmon.

15 MR. HARMON: Thank you.

16 CHAIRMAN EATON: One other thing. Is that
17 part of a local ordinance now, the building permit?

18 MR. HARMON: Not as of yet. We're -- it
19 has to go to city council first. This is something that
20 came to light obviously with the gravel pit situation, the
21 C&D situation.

22 And I would like to add, just to show how
23 it compounds upon itself, we took the materials that we're
24 talking about, the 4,000 tons of C&D for the demolition of
25 this one dormitory at Claremont Colleges. Those 4,000

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1 tons hit on what we like to refer to as a counting week, a
2 week where the facility counts it and extrapolates it out
3 for the entire quarter. In a city where we have an annual
4 complete commercial-residential waste disposal number of
5 approximately 40,000, 45,000 tons, because of the
6 demolition of this one two-story building at the Claremont
7 Colleges, we were told by the gravel pit it was 20,000
8 tons of material. Either they dug way deeper than the
9 building --

10 (Laughter)

11 MR. HARMON: -- or obviously those numbers
12 are wrong. So these are the kinds of things that we want
13 to -- and actually we already have begun with Chris and
14 his staff to demonstrate that the common sense approach
15 tells you something is wrong.

16 CHAIRMAN EATON: Thank you very much.

17 MR. HARMON: Thank you.

18 CHAIRMAN EATON: Mr. Jones.

19 BOARD MEMBER JONES: Mr. Chairman, I'd move
20 adoption of Resolutions 1999-551 through 1999-555 with the
21 appropriate findings to indicate that the Board --

22 CHAIRMAN EATON: I think this cluster --

23 BOARD MEMBER JONES: Didn't I say --

24 CHAIRMAN EATON: This cluster --

25 BOARD MEMBER JONES: I'm sorry.

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1 CHAIRMAN EATON: 53, 54 -- 54 is not able
2 to be here.

3 BOARD MEMBER JONES: 51 and 53. I'm sorry,
4 Mr. Chairman -- we don't, with the appropriate findings to
5 indicate that the Board does not approve the requested
6 base year and reporting correction, accepts staff findings
7 that the jurisdiction is making progress in implementing
8 its SRRE but can't determine that it is meeting the
9 diversion requirements due to incalculable or inaccurate
10 data, and is issuing a compliance order.

11 BOARD MEMBER PENNINGTON: I'll second.

12 CHAIRMAN EATON: Okay. Mr. Jones moves and
13 Mr. Pennington seconds that we adopt Resolution 1999-551
14 and Resolution 1999-553.

15 Without objection, substitute the previous
16 roll call. Hearing no objection, so shall be the order.

17 Members, what I would like to do in terms
18 of the process right now is take up the remaining items,
19 30 and 31, as well as Agenda Item 32, and then I notice
20 that the individuals from the City of Lakewood have just
21 arrived. After we finish those other two items, we'll
22 take a break and take up the City of Lakewood after the
23 break and give everyone some time. If that's okay with
24 everyone, we'll try and go through the last two items
25 right now, which would be Items 30 and 31.

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1 Mr. Leary.

2 MR. LEARY: Thank you, Mr. Chairman.

3 Agenda Items 30 and 31 regard the
4 jurisdictions of Laguna Beach and Loma Linda. Staff is
5 requesting that the findings of Agenda Items 30 and 31 be
6 found by the Board as jurisdictions that are making
7 progress in implementing their Source Reduction and
8 Recycling Element diversion requirements but cannot
9 determine that they are meeting the diversion requirements
10 due to incalculable and/or inaccurate data, and that the
11 attached compliance orders be issued.

12 That concludes my presentation.

13 CHAIRMAN EATON: I have two speakers.
14 Before we have the speakers, I've just been notified by
15 our staff that the city staff, one of the City of San Luis
16 Obispo, has informed us there's a back parking lot where
17 some members of the public today may have parked. If you
18 are one of those, they are informing us that they will be
19 towing those automobiles in the back lot here. So if any
20 of you for any reason may have inadvertently parked in the
21 back, would you kindly go and remove your car and we
22 promise to save your spot on the agenda. Trust me.

23 BOARD MEMBER ROBERTI: No one is fessing
24 up.

25 CHAIRMAN EATON: Okay. If you need to

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1 during the break.

2 I have two speakers. Jamie Pendleton from
3 the City of Laguna Beach.

4 MS. PENDLETON: Mr. Chairman and Members of
5 the Board, thank for the opportunity to speak to you this
6 morning. What I'm passing out to you is just a summary of
7 what we've done in Laguna Beach, and we feel we've done
8 quite a bit in the area of program implementation.

9 Laguna Beach is very environmentally
10 conscientious and it likes to meet the intents of the law
11 which is to divert materials from going into the landfill
12 system and the landfill system in Orange County is
13 precious and a resource to be protected.

14 Before I step on the programs that we've
15 touched on in this summary sheet, I want to commend your
16 staff as well in the assistance that they provided to the
17 City of Laguna Beach. It's been personal and intimate in
18 terms of targeting programs that will help us in our
19 unique situation. We are a coastal community up against a
20 hillside, and the topography and the development is such
21 that it's really difficult for commercial businesses, as
22 well as residences, to house separate containers for the
23 materials that we have implemented this year, a three to
24 five cart program in the residential sector, and that
25 allows each home to have up to five carts; two for

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1 recycling, two for green waste, and one for trash. If
2 they choose to divert or place more materials in the trash
3 container, then they're charged additional fees. But by
4 giving them flexibility on the materials they would like
5 to divert, we have seen an increase in our residential
6 wastestream diversion from about 20 percent to 46 percent.

7 So we're encouraged by the programs that we
8 have implemented recently and are looking forward to our
9 commercial sectors to see what we can do to take all the
10 wet restaurant waste and turn it into something that can
11 avoid the landfills as well.

12 The sheet in front of you highlights some
13 of our efforts with our waste hauler, Waste Management
14 Orange County, and we do have a free recycling program
15 since 1993 for commercial sectors. So if the business
16 wants to put things in a recycling container, that goes
17 away free of charge. If he wants to put that in a bin,
18 then that is charged accordingly by the bin contract that
19 they have with that business. So we think we've got a
20 fantastic economic incentive for the commercial sector,
21 but again the space is a major constraint in our coastal
22 town.

23 Some other obstacles that we have include
24 the visitor population, which we did not account for in
25 our SRRE, and it's upwards to 3 million people, and the

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1 economy is such that more people are coming to our town.
2 Unfortunately, they're not taking their trash home with
3 them when they leave Laguna Beach. We need to deal with
4 that that's generated here in town.

5 As well we have been hit by a number of
6 disasters. We had a terrible fire storm in 1993, and
7 we're rebuilding still in our residential neighborhoods
8 and that's generated ongoing waste. It's hard to quantify
9 seven years after the event. El Nino storms and winter
10 storms in '95 and '96 have also generated disaster-related
11 debris that after the first FEMA period, it's hard to
12 follow that wastestream as well to see what's actually
13 been generated from the disasters.

14 What we are planning to do is take your
15 compliance order very seriously and take those actions.
16 We have already contracted with Dr. Saint (phonetic) to
17 start a base year generation study and take a look at what
18 we've missed and account for the variables that we think
19 are relevant and continue with our programs that we have
20 outlined in the SRRE.

21 Again, the city council feels very adamant
22 about programs and doing the right things in terms of
23 addressing the diversion, actual true diversion, despite
24 the numbers. At the staff level, we recognize it's going
25 to take the balance of those.

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1 If you have any questions specific to our
2 agency, I would be happy to welcome your comments.

3 CHAIRMAN EATON: Any questions of
4 Ms. Pendleton?

5 BOARD MEMBER JONES: Mr. Chairman.

6 CHAIRMAN EATON: Mr. Jones.

7 BOARD MEMBER JONES: Just one comment. I
8 appreciate the fact that part of your action plan is to do
9 this because in our staff report, staff said with the
10 programs the City is doing, we figure the numbers are just
11 way too low. I mean originally. Unfortunately, that's
12 part of what happens. Hopefully we can get out so we can
13 get it fixed as soon as possible so when 2000 comes
14 around, there's not an issue.

15 MS. PENDLETON: It keeps morale up with the
16 residents, that we're trying to do the right thing.

17 BOARD MEMBER JONES: And this compliance
18 order is saying time to fix -- you know, our staff is
19 saying you guys are doing a great job, the numbers just
20 don't match the programs. So let's figure out where the
21 problem is. I think it's good that you identify that
22 tourist wastestream wasn't accounted for. That's got to
23 be huge in Laguna Beach. I've been in Laguna Beach many
24 times as one of those visitors along with many, many
25 hundreds of thousands of other people it seems like on a

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1 given day. Hopefully when it gets quantified, hopefully
2 it's going to get this.

3 MS. PENDLETON: Thank you very much.

4 CHAIRMAN EATON: Thank you.

5 Our last speaker on this cluster of items,
6 Ann Kull from the City of Loma Linda.

7 MS. KULL: Good morning, Mr. Chairman,
8 Board Members. Bear with me. I'm going to read the
9 letter that I wrote. I'm not a public speaker, so you can
10 see the mistakes and my nervousness.

11 Thank you for the opportunity to represent
12 the City of Loma Linda. I would like to state that the
13 report which was sent to the Board was very -- did not
14 fully define the efforts of the City of Loma Linda.

15 As you know, Loma Linda is a medical city.
16 We have one of the great medical centers of the world
17 there, and unfortunately all that waste that is diverted
18 from the medical center is not in the report, and I'm sure
19 that makes a big difference in our numbers.

20 In the past month, current staff has been
21 doing a lot of research in AB 939, and we also found that
22 the tonnage taken to Orange, Los Angeles, and Riverside
23 Counties was not included in the report. Attached is a
24 list of programs that the City has and is currently
25 implementing, and also the minutes from the city council

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1 meeting since 1992, verifying the City has been in
2 compliance with AB 939.

3 In addition to these programs, the City has
4 an annual cleanup day. Our household hazardous waste is
5 processed through San Bernardino County Fire Department,
6 and in the year 2000, we will have two grasscycling
7 demonstration sites in the city of Loma Linda.

8 As continuing education, we will post
9 recycling notices at our post office, library, civic
10 center bulletin boards, the local newspapers, we have a
11 web page on the internet, the local TV channel, and our
12 counters in the civic center building with the building
13 safety and public works. Building safety is also going to
14 be issuing a lot of information out to contractors, to
15 builders about waste reduction there as they demolish a
16 lot of buildings.

17 We will be doing a new diversion study in
18 2000. However, if the Board wishes, I believe -- do you
19 want us to correct the calculations we have now? We're
20 trying to -- I am working with Starrett Cycling (phonetic)
21 and a few of the other agencies to get their annual
22 tonnage reports in to me. They haven't been doing that,
23 and again the reason for our calculations so low.

24 With this information that we have sent, we
25 feel that we have been making a good faith effort and we

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1 will continue to do so. We do appreciate the comments and
2 recommendations of the Board, and I especially want to
3 thank Mr. Furey for working with me and bringing me this
4 far. He's been a big help to me, and I'm new at all of
5 this, so I'm learning.

6 CHAIRMAN EATON: We all are.

7 MS. KULL: We would really appreciate any
8 help that is available.

9 CHAIRMAN EATON: Any questions? Okay.
10 Thank you.

11 BOARD MEMBER PENNINGTON: Mr. Chairman.

12 CHAIRMAN EATON: Mr. Pennington.

13 BOARD MEMBER PENNINGTON: If that concludes
14 public testimony, I'll --

15 CHAIRMAN EATON: It does, sir.

16 BOARD MEMBER PENNINGTON: -- be happy to
17 move adoption of Resolution 1999-555 and Resolution
18 1999-556.

19 CHAIRMAN EATON: Okay.

20 BOARD MEMBER JONES: I'll second.

21 CHAIRMAN EATON: Mr. Pennington moves,
22 Mr. Jones seconds that we adopt Resolution 1999-555 and
23 Resolution 1999-556.

24 Without objection, substitute the previous
25 roll call. Hearing no objection, so shall be ordered.

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1 The last item, Item Number 32, before we
2 break for our morning break and then come back and do the
3 City of Lakewood. Agenda Item 32, Torrance.

4 Mr. Leary.

5 MR. LEARY: Before we do, Mr. Chairman, let
6 me on behalf of staff acknowledge my appreciation of the
7 positive comments about the staff today. I think that's
8 very nice the cities and jurisdictions are taking the time
9 to say something positive.

10 Agenda Item Number 32 is concerning the
11 City of Torrance new base year consideration. Staff is
12 requesting that the Board not approve the base year change
13 requested and accept staff findings that the jurisdiction
14 is making progress in implementing their Source Reduction
15 and Recycling Element programs but cannot determine that
16 they are meeting diversion requirements due to
17 incalculable and/or inaccurate data, and that the attached
18 compliance order be issued.

19 That concludes my presentation.

20 CHAIRMAN EATON: All right. One public
21 speaker, if there's no questions of staff. Mike -- I'm
22 going to butcher the name -- Balliet.

23 MR. BALLIET: Balliet.

24 CHAIRMAN EATON: Balliet.

25 MR. BALLIET: Chairman and Members of the

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1 Board, I'm Mike Balliet. I wasn't sure that you are going
2 to not approve. In reading this, it was consideration of
3 the base year, but I do agree with staff that the City of
4 Torrance is faced with a situation similar to many cities
5 in L.A. County and that they're unable to get accurate
6 numbers from the landfill system.

7 I have a lot of things I'd like to say
8 about the L.A. Fix, but we're in mixed company so I'll
9 stay away from that as much as I can.

10 (Laughter)

11 CHAIRMAN EATON: Rural and urban here.

12 MR. BALLIET: Exactly.

13 CHAIRMAN EATON: Okay.

14 MR. BALLIET: If you look at the blue area
15 on the top of the map there and the blue area at the
16 bottom, the one at the top would represent City of L.A.,
17 the bottom would represent the Port of L.A. and to obtain
18 the revenue from the Board, the City is connected by a
19 very thin strip that happens to run for three and a half
20 miles on the border of Torrance. It wouldn't be such a
21 big problem except that is the biggest industrial area in
22 the city, 5- to 25-acre lots, huge companies, and on each
23 side of the street it's the same. Unfortunately, one side
24 is City of L.A. and one side is Torrance. They both have
25 Torrance mailing addresses. They have the same zip code

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1 on and on and on.

2 If this isn't a tough enough situation,
3 we've tried to argue for several years and tried to
4 discount tonnage based on our own tracking of haulers,
5 unfortunately unsuccessfully, is that the City of L.A. and
6 the County of L.A. are not on very friendly terms. As you
7 probably know, back when they did their SRRE, L.A. said,
8 "Oh, look. We're in compliance, what a great diversion
9 rate we have," and the County said, "Hey, wait a minute.
10 You've got 50,000, 60,000 tons here you forgot to count.
11 "Those aren't our tons." "Yes, they are." "No, they're
12 not." "I'm going to take my landfill and go home."

13 Basically City of L.A. cannot take their
14 waste to county landfills. The problem in the South Bay
15 is that they're so distant from landfills, most of the
16 haulers don't go there. They go to a transfer station.
17 If I'm picking up a load and I know that I can either dump
18 it at this transfer station right where I'm at or I can
19 drive 25 miles to the landfill for the City of L.A., I'm
20 going to go, "Oh, it's from Torrance."

21 Same thing is happening with Gardena. It's
22 a big problem, and my observation would be when we tried
23 to address this situation, we were told that we needed to
24 fix the problem with the County ourselves as the City of
25 Torrance. We've tried that. They basically say we have

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1 no L.A. waste in county landfills. It's not allowed, but
2 don't you understand the situation? These people are
3 reporting so that it's not allowed in our landfill.

4 There's no avenue to resolve it, so this
5 year we basically got tired of fighting. We've seen the
6 problem coming. City of Torrance has actively implemented
7 their SRRE program since year one. We've gone out and
8 audited large businesses, developed new programs, very
9 proactive city, and then boom, you're at negative 50
10 percent. Come on, guys.

11 The solution I would hope is that -- and
12 maybe I'm an idealist, but if somebody could say come on
13 County of L.A., City of L.A., we're all big people here.
14 Resolve your problems. As far as a survey week versus
15 County of Los Angeles, come on. Raise the tipping fees a
16 dollar, \$2 a ton. That's \$20,000 a day. You can get a
17 bar code system. You can track the origin of waste. Do
18 something rather than on relying on one week.

19 Everybody knows when that week is. You're
20 telling me people aren't holding up trucks or sending
21 trucks basically to play with the numbers? It's a very
22 frustrating situation.

23 Our solution is to accept what the system
24 throws at us and change our base year to basically account
25 for 90,000 additional tons. True, when Torrance did its

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1 SRRE, it ignored several large generators of waste. You
2 can read the body of the report and see they missed a lot
3 of tonnage. Was it 90,000 tons? I don't know, but under
4 the current system, that's what we must accept.

5 The question or the direction that we need
6 from the Board is we are using the audits, the audit
7 system where we go out and audit firms to determine the
8 diversion to go along with the disposal. I've heard
9 numbers like 250 audits or 300 audits is what's needed for
10 a large city to extrapolate diversion across its entire
11 business community.

12 In the City of Torrance and several other
13 cities that I work with, they have multiple haulers. Now,
14 there's one hauler or maybe two haulers that control 70
15 percent of the city, but the other 30 percent is
16 controlled by 20, 30 other haulers. The first question is
17 should we have to do additional audits beyond the
18 prescribed number for a City the size of Torrance just
19 because we have more than one hauler? If the number is
20 300 to extrapolate the City's diversion, why should we
21 have to do 360 because we have more than one hauler?

22 The second issue would be if one hauler
23 does 300 audits, they have 70 percent of the wastestream
24 and their routes are analogous with the City as a whole,
25 why should we be required to do audits among the other 30

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1 firms to extrapolate that citywide?

2 It's 300 audits. If the sample size is
3 quite similar to the City as a whole -- and those are
4 areas that I understand staff is moving on the cuff. This
5 is all new things, but these are issues that are going to
6 not just face the City of Torrance but several other
7 cities that have open hauling communities. I'm for
8 delaying the break for so long.

9 I appreciate your time.

10 CHAIRMAN EATON: Any questions of
11 Mr. Balliet?

12 BOARD MEMBER JONES: I do think this is
13 another candidate for the DRS because I hadn't heard that
14 strip, and I think that's critical because it's one of the
15 issues that came up. We've known -- we know the issue
16 exists. So I think it's important we look at that. It's
17 part of the DRS.

18 CHAIRMAN EATON: Senator Roberti.

19 BOARD MEMBER ROBERTI: Your point is
20 obviously very, very plausible. I'm just wondering,
21 however, how much is that -- assuming the Torrance post
22 office zone portion of the strip was all going to be
23 credited against Torrance in error, what percent of your
24 city --

25 MR. BALLIET: Well, if you look at Torrance

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1 and Gardena, that's in the similar situation --

2 BOARD MEMBER ROBERTI: Gardena, I guess,
3 had come up with the same thing, yeah.

4 MR. BALLIET: It's part of the problem. I
5 think in our annual report of 1995 we addressed the other
6 situation which is you have haulers that are franchised
7 with surrounding communities, that make guarantees about
8 diversion rates. Again, they control the material
9 recovery facility where everyone is going. Their trucks
10 are going to the landfill and they report that tonnage.

11 Without an accurate, verifiable system of
12 checks and measures, I think the numbers are going to
13 fall. Not to accuse anybody of anything, but the numbers
14 may not fall exactly as they are collected. I think
15 that's part of the problem, but I do think it's a very
16 significant problem, that strip, because of the size of
17 companies. We have companies that generate 4,000, 5,000,
18 6,000 tons a year and multiple companies in that category
19 in that area. You have Farmers Brothers Coffee.

20 BOARD MEMBER ROBERTI: That's in L.A. but
21 has a Torrance address?

22 MR. BALLIET: It has a Torrance address.

23 BOARD MEMBER ROBERTI: On a map, it doesn't
24 look that big on a map, but --

25 MR. BALLIET: Again, not to add more

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1 confusion, but you have Torrance, you have Los Angeles,
2 and you have County of Los Angeles, and you have these
3 strips running right by these communities. It's very hard
4 to tell where the waste is coming from.

5 Again, if the County was more along the
6 lines of Orange County where they had a daily record
7 keeping system, they could probably nip it in the bud
8 better, and even a step beyond that, a bar coding system
9 on trucks where they would have to obtain this bar code
10 from the cities that they're from in order to go to the
11 landfills. You could get the information on where they
12 haul, and you know, the big problem I hear is oh, there's
13 going to be illegal dumping. If you raise tip fees a
14 dollar, \$2 a ton, you create \$20,000 a day at each
15 landfill, you can hire some guys to drive around in Suzuki
16 Samurais and follow trash trucks to see if they're
17 illegally dumping and write them up on the spot.

18 I think there's a solution. I'm not quite
19 seeing the will for a solution right now.

20 CHAIRMAN EATON: Thank you. All right.
21 Members.

22 BOARD MEMBER PENNINGTON: Mr. Chairman.

23 CHAIRMAN EATON: Mr. Pennington.

24 BOARD MEMBER PENNINGTON: I'll move the
25 adoption of Resolution 1999-557 with the appropriate

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1 findings to include that the Board does not approve the
2 requested base year change, accepts the staff findings
3 that the jurisdiction is making progress in implementing
4 its SRRE but cannot determine that it is meeting the
5 diversion requirements due to incalculable and/or
6 inaccurate data, and is issuing a proposed compliance
7 order with the necessary required changes.

8 BOARD MEMBER JONES: Second.

9 CHAIRMAN EATON: All right. Mr. Pennington
10 moves and Mr. Jones seconds that we adopt Resolution
11 1999-557.

12 Without objection, substitute the previous
13 roll call. Hearing no objection, so shall be ordered.

14 Ladies and gentlemen, we're past our break
15 time. I think we'll return at 11:30, at which time we'll
16 take up the City of Lakewood and close out this portion of
17 today's agenda.

18 We'll reconvene at 11:30.

19 (Brief recess taken.)

20 CHAIRMAN EATON: Welcome back, everyone.
21 I'll wait as people start drifting back in before we
22 begin. Maybe they have to hear.

23 Just a couple of announcements. For those
24 of you who will be staying late this afternoon or possibly
25 through tomorrow, in front we have the Cold Canyon

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1 Landfill tour and barbecue information wherein buses will
2 pick individuals up and take them to the site so that we
3 can minimize the transit of so many vehicles and stuff, so
4 that will be here. I believe it begins at 4:00 and will
5 wind up around 6:00 or so. So those are here. Everyone
6 is welcome, not just Board staff or Board Members, but
7 everyone, according to our host. So if you have an
8 opportunity or need to get on the road but want to stop
9 by, greatly appreciate it.

10 In addition, just to update you on today's
11 agenda, some of the items if you're here, Item 48, which
12 is consideration and approval of award of contract for
13 Recycled Content Trade Show -- which is not part of the
14 allocation item, but it's Item Number 48 -- it will be
15 continued to the November Board meeting.

16 So if you're here for that item, I
17 apologize. Staff has said they would like to take a
18 couple of more looks at the item, and so that will be
19 continued until November. So that will relieve some of
20 our other pressures.

21 In addition, we will try and get through
22 all of the agenda today with the exception of the
23 allocation. Ms. Moulton-Patterson will be here tomorrow
24 hopefully, and I made a promise to her that it was only
25 fair and right that she be present for that discussion as

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1 well and I think can add something to it. That might
2 hopefully be the only agenda item that we would take up.
3 Senator Roberti, I shouldn't probably speak so much in
4 advance of something happening. We have an afternoon.

5 Before we begin the last item, I would just
6 like to say thank you to our staff and also to the
7 jurisdictions. When we began this process back in May,
8 frankly, none of us knew where a lot of it was going. We
9 did know that we have been subject to a lot of criticism
10 collectively about backlog and trying to move things
11 along. I think with this last item and maybe one or two
12 that might be heard in November, we have closed a chapter
13 as a Board, as a State, and as a community interested in
14 waste diversion, in recycling, reuse and reduction, but
15 one that we can be proud of.

16 I would also like to ask staff if at the
17 next meeting they can make an overall presentation to the
18 Board as to how many jurisdictions we got through the door
19 with regard to 1995 and good faith efforts. Do we have
20 any figures now that would kind of indicate how many, a
21 percentage of compliance orders just in the rough, and if
22 so, what date?

23 MR. LEARY: Yes, we do, Mr. Chairman. I
24 can just briefly report that prior to the start of last
25 week's meeting, as of October 1st, 1999, the Board had

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1 reviewed 358 -- excuse me. It approved 358 SRRE biennial
2 reviews prior to October 1st. 303 of those were full
3 approvals, 55 were good faith efforts. The remainder of
4 55 were compliance ordered, which would lead you to
5 conclude, if my mental math isn't too rusty, you've got
6 about a 12-percent compliance order rate; or maybe more
7 positively said, 88 percent of the biennial reviews that
8 this Board has reviewed up to until 1st have been
9 approved.

10 CHAIRMAN EATON: Okay.

11 BOARD MEMBER ROBERTI: Mr. Chairman.

12 CHAIRMAN EATON: Senator Roberti.

13 BOARD MEMBER ROBERTI: Before we proceed
14 any longer, I would just like to report an ex parte of
15 Mr. Eppolito and Mr. Balliet regarding computations and
16 diversion rates in general.

17 CHAIRMAN EATON: Thank you.

18 Mr. Pennington, anything to report?

19 BOARD MEMBER PENNINGTON: No.

20 CHAIRMAN EATON: Mr. Jones.

21 BOARD MEMBER JONES: To Mark Harmon, City
22 of Claremont, and then a quick hello to the folks from the
23 City of Lakewood.

24 CHAIRMAN EATON: All right. Our final item
25 in the cluster relating to local jurisdictions and

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1 biennial review plans is an item that was in another
2 cluster, but due to unforeseen circumstances beyond
3 anyone's fault, City of Lakewood. That would be Item
4 Number 29 regarding reporting year correction.

5 Mr. Leary.

6 MR. LEARY: Thank you, Mr. Chairman.

7 Agenda Item 29 is an L.A. Fix or reporting
8 year correction for the City of Lakewood. Board staff is
9 requesting the Board accept the findings the jurisdiction
10 is making progress in implementing their Source Reduction
11 and Recycling Element diversion requirements but cannot
12 determine that they are meeting the diversion requirements
13 due to incalculable or inaccurate data, and that the
14 attached compliance order be issued.

15 That concludes my presentation.

16 CHAIRMAN EATON: Any questions of
17 Mr. Leary? Before we begin, I have one speaker slip.
18 Mr. Howard Chambers from the City of Lakewood.

19 Mr. Chambers, welcome.

20 MR. CHAMBERS: Thank you very much,
21 Mr. Chairman.

22 CHAIRMAN EATON: Glad you could make it,
23 given today's weather conditions.

24 MR. CHAMBERS: We really appreciate the
25 fact that we can speak on this issue, and we appreciate

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1 the fact that you delayed the item. We were fogged out of
2 this city, but we're here now.

3 I'm Howard Chambers, Lakewood City
4 Administrator. I have with me Wayne Piercy, who is our
5 Vice Mayor; Lisa Rapp, who is the Director of Public
6 Works; and Michael Huls, who is our technical expert.

7 We're here to request as a matter of
8 fairness that this matter be deferred until November, when
9 some of the computational calculation issues can be
10 resolved. We are convinced that when these numbers are
11 reviewed, that very simply will allow this to be approved
12 and a compliance order won't be needed.

13 I was at a city manager's meeting last week
14 where one of the city managers confessed to the group that
15 his city had done absolutely nothing on AB 939 for nine
16 years. He was retiring. He was giving advice to his
17 successor, and that advice was that he needed to do
18 everything he can to take care of your compliance order
19 and get moving on AB 939.

20 Lakewood is a bit different. Lakewood has
21 a long history, I think, of doing the right thing on this
22 issue. I was the City Administrator in Lakewood in the
23 mid-80s when your predecessor agency, the Solid Waste
24 Management Board, came to us and asked us to pledge our
25 trash for the SERRF plant, the waste to energy plant

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1 constructed on Terminal Island. These waste-to-energy
2 plants were going to be the wave of the future, they were
3 going to solve the landfill crisis, they were going to be
4 built around the state --

5 BOARD MEMBER ROBERTI: What year was that?

6 MR. CHAMBERS: That was 1984. And we were
7 asked to pledge it because they needed the financial
8 backing, they needed the financing, they needed the waste
9 backing in order to get financing for the plant. Our city
10 council committed our trash to this effort because of
11 their conviction that that was the right thing to do, even
12 though our residents through that process were paying
13 twice the tipping fee through their trash rates of the
14 county landfill. And even now, they're paying \$10 per ton
15 more for that, doing the right thing.

16 We made this commitment and pledged
17 ourselves to these higher tipping fees before there ever
18 was an AB 939 and just at the very start of the
19 understanding that there was a pending landfill crisis in
20 this state. So I think we stepped up to the plate.

21 Our agreement to take our waste to SERRF
22 also means that Lakewood is one of only a few cities in
23 California that can claim disposal capacity without
24 landfilling for the next eight years. Although the SERRF
25 agreement requires that transformation be the basis for

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1 the City's diversion plan, we have done much more. We
2 have one of the state's largest voluntary programs for the
3 collection of recyclables. We have over 30 collection
4 centers throughout the city where residents can recycle a
5 larger variety of other items, and the redemption value is
6 kept by the resident and not by the City.

7 We are active in hazardous materials
8 roundups and used oil recycling. We installed an entire
9 playground using equipment fabricated from recycled and
10 recyclable materials through a grant from the Department
11 of Conservation, and we have also renovated 13 others
12 using this green technology.

13 We require our asphalt street overlay
14 projects to contain rubberized asphalt, and that costs an
15 average of 15 to 25 percent more than conventional
16 asphalt, but it's the right thing to do. We just
17 completed a street overlay project on South Street that
18 leads between Long Beach and Cerritos. We were advised
19 that 33,000 tires were used in that process at a higher
20 cost to the City of Lakewood than conventional asphalt.

21 We have backyard composting programs. We
22 provide compost bins to residents out of city hall. We
23 have seven green waste recycling programs of mulch and
24 compost the City's lawn and tree trimmings. Our contract
25 hauler MRFs the materials from our recyclable-rich waste

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1 from our regional shopping center and also from the
2 apartment complexes.

3 During the recession, I can tell you that
4 virtually the only position that I added to the city
5 payroll was a recycling coordinator because we believe
6 that was the right thing to do. We have an outstanding
7 public information office. We have an award-winning cable
8 television staff that constantly promotes Lakewood's
9 reduce, reuse and recycle philosophy.

10 So my point is this. Lakewood has always
11 done the right thing, even though the right thing may cost
12 more to Lakewood residents, not exactly a politically
13 popular thing to do. Lakewood has done the right thing
14 even when other cities justifiably criticize when you have
15 done nothing wrong.

16 Now, we've been told a few times that these
17 compliance orders are only a tool, that an order gets the
18 City off the dime. But I want to say that in Lakewood I
19 don't think that that's necessary. I think the compliance
20 order is both unneeded and unfair.

21 Why is it unneeded? I think when you look
22 at the calculations caused by the base year changes that
23 somehow got mixed up in transit, you will see a very close
24 to 21 percent base year diversion that we have under AB
25 260. Why is it unfair? Probably because I've been in

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1 this business long enough, 30 years, to know that
2 something called a compliance order is not good news, is
3 not something somebody wants to get. The presumption is
4 you are not doing something that you are supposed to be
5 doing. And in our case that's not true.

6 Anyone reading the press releases issued
7 after a Board meeting knows that a compliance order places
8 the City in a very defensive position and is certainly not
9 considered merely a neutral tool. So as a matter of
10 fairness for a city that has worked very hard with this
11 Board and this staff historically in good faith, I would
12 respectfully request that this matter be deferred until
13 November, where we are convinced that the numbers, once
14 crunched, will find us to be in compliance and your order
15 will not be necessary.

16 CHAIRMAN EATON: Questions of Mr. Chambers?

17 BOARD MEMBER ROBERTI: Mr. Chairman.

18 CHAIRMAN EATON: Senator Roberti. I'm
19 sorry.

20 BOARD MEMBER ROBERTI: In prior meetings
21 with either me or my staff, it's been said that Lakewood
22 has a contract with SERRF, which you alluded to. How
23 rigid is that contract, its provisions? Do you have any
24 maneuverability with that?

25 MR. CHAMBERS: I would suggest we don't. I

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1 would suggest the contract is binding to the year 2007.

2 BOARD MEMBER ROBERTI: When was the
3 contract entered into?

4 MR. CHAMBERS: I'm sorry?

5 BOARD MEMBER ROBERTI: When did you enter
6 into the contract?

7 MR. CHAMBERS: 1987 for a 20-year period.

8 I might also point out that one of the things that some of
9 us old-timers remember was when we entered the contract,
10 the calculations done on what the likely numbers would be,
11 we were advised we'd be paying higher tipping fees for the
12 first ten years and would get real results from this
13 long-term contract in the final ten years. We've yet to
14 see that, and there's a variety of reasons, I know, but we
15 would like to remain in that contract until that day
16 happens.

17 BOARD MEMBER ROBERTI: So your point is you
18 were -- as you understand it, the early provisions -- the
19 provision of the contract in the early years caused higher
20 tipping fees, and you entered into it with the
21 understanding that in the later years you would have a
22 lower tipping fee?

23 MR. CHAMBERS: Lower than what was
24 occurring in the industry. All the calculations, because
25 running out of landfill space, had tipping fees going off

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1 the chart, and part of -- I won't say we were seduced into
2 it. Part of it is you'll be paying a lot more now, but by
3 golly, when those others are paying a small fortune --

4 BOARD MEMBER ROBERTI: Who told the City
5 that?

6 MR. CHAMBERS: L.A. County, I think the
7 Solid Waste Management Board staff. I mean, there were a
8 variety of actors that were involved in that discussion.

9 BOARD MEMBER ROBERTI: And as late as '87,
10 you're saying the Solid Waste Board Management staff was
11 encouraging SERRFs?

12 MR. CHAMBERS: We were encouraged --

13 BOARD MEMBER ROBERTI: I'm sorry.

14 MR. CHAMBERS: The document is there. We
15 were encouraged to pledge our trash. Again, this was
16 German technology --

17 BOARD MEMBER ROBERTI: So now you're --

18 MR. CHAMBERS: -- that was going to solve
19 the problem.

20 BOARD MEMBER ROBERTI: So now you're
21 saying we've changed our position.

22 MR. CHAMBERS: Well, life goes on. I'm not
23 regretting that.

24 BOARD MEMBER ROBERTI: The legislature has
25 changed our position.

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1 MR. CHAMBERS: The fact of the matter is we
2 did the right thing back then. We did the right thing
3 when nobody else stepped up. We did the right thing when
4 60,000 tons of wastestream was needed to provide financing
5 for that plant and we stepped up to the plate. And even
6 then, the tipping fees were twice what you pay at L.A.
7 County landfill.

8 BOARD MEMBER ROBERTI: Is that our staff's
9 understanding as well, that when Lakewood entered into the
10 contract it was with the understanding the tipping fees
11 would be smaller than the industry tipping fee in the
12 latter part of a 20-year contract?

13 MR. LEARY: Senator, I don't believe the
14 staff has looked at that contract in any kind of detail.
15 In fact, I think --

16 BOARD MEMBER ROBERTI: Mr. Chairman, if I
17 might.

18 CHAIRMAN EATON: Senator Roberti.

19 BOARD MEMBER ROBERTI: Based on that point,
20 I think the contract and the understandings and the
21 encouragements, or lack thereof, in the original contract
22 to the SERRF are critical, at least in my vote they're
23 critical, and without even hearing anything more, based on
24 what our staff tells us, that they haven't looked into
25 this -- and I'm not criticizing them for it. They've done

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1 a wonderful job. A whole host of items have come before
2 us so far. I personally am not prepared to vote on
3 Lakewood.

4 BOARD MEMBER JONES: Mr. Chairman.

5 CHAIRMAN EATON: Mr. Jones.

6 BOARD MEMBER JONES: I think that just for
7 the benefit of staff and everybody, back in the '80s, I
8 will tell you that my company spent over a million dollars
9 trying to do the research to site a waste energy facility
10 in the Bay area. Our partner was PG&E. It didn't pass.
11 It was clearly the wave of the future.

12 AB 939 doesn't have anything to do with the
13 fact that in the '80s there was, in fact, the perception
14 and the actuality of a future landfill shortage in the
15 state of California. It's what drove the law. It's what
16 drove investment. It's also what drove the
17 entrepreneurial side of my industry that went out and
18 started siting bigger landfills to try to do regional --
19 provide some of that diversion or some of that disposal
20 capacity.

21 I think that Lakewood -- I believe
22 everything that the city administrator has said because
23 that was the party line from the State of New York to
24 San -- to Long Beach, that waste energy facilities in
25 fact, with the generation of waste, with a -- as a

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1 disposal method was the answer in the future. We know in
2 California that politically, people don't have different
3 opinions, but that doesn't have anything to do with the
4 fact that -- I think the City of Lakewood did the right
5 thing. Like I said, we spent a million bucks of our money
6 to try to site -- or to try to do the study to decide
7 whether or not to site one in San Francisco, because in
8 San Francisco we didn't have a landfill. We had to rely
9 on outside jurisdictions.

10 But I think one of the things that is in
11 contrast here is that while the City of Lakewood had to
12 commit a wastestream to that facility, so did the City of
13 Long Beach. And while the City of Long Beach has a bigger
14 rate base, they've got more people, they also have got a
15 lot of programs that -- over and above just the waste
16 energy plant. They have a full menu of diversion programs
17 and other things.

18 And I think one of the issues that I've
19 dealt with personally in Lakewood is I'm not sure that two
20 weeks or a month are going to have anything to do with
21 getting the numbers different. They'll be different, but
22 it will be fourth time they've been different. We have
23 gone through this calculation exercise four different
24 times, and all times it's different. The compliance
25 order, in my view, is a way to formalize the time it takes

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1 to fix to where everybody can agree. We were at a meeting
2 last Thursday or Friday, I don't know -- Thursday, where
3 representatives from the City came up, and it was the
4 Senator and the Chairman and myself were involved in that
5 meeting. And there were items missing, items that hadn't
6 been calculated, items that we can't verify, items that
7 the City can't verify. A two-week extension so that we
8 can bring this up again doesn't make a lot -- it doesn't
9 make a lot of sense to me.

10 I think given the time that you really get
11 into the analysis and determine what the tonnages are,
12 what the -- I've seen the self-hauled go -- in the letter
13 we got this morning, it was assigned at 6 percent in the
14 original SRRE. Now you've determined it's at 16.6
15 percent. When they tried to do the L.A. Fix, they tried
16 to go from 79,000 tons to 89,00 or 90,000, I don't have
17 the number, saying that was self-hauled waste. Clearly
18 that's not ten percent. And while I think that the
19 playing with numbers, it's not a science, I don't want the
20 City to feel like this is something bad. In my view, it's
21 a way to finalize what has been blurry, and hopefully we
22 had -- we did about eight compliance orders today and we
23 had eight cities come up and say they were appreciative of
24 the time to try to fix these things.

25 I just -- I view this as clearly the time

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1 it might take to fix it, and then we have told staff,
2 we've said it at every one of the meetings. In that time
3 that that order is in place, get it fixed and we will put
4 you on an agenda immediately to get you off. But there's
5 536 jurisdictions. We have, I don't know, 10 or 20 left
6 to come, and every one has gone through and it just
7 doesn't seem consistent.

8 CHAIRMAN EATON: Senator Roberti.

9 BOARD MEMBER ROBERTI: Mr. Chairman, why
10 I'm suggesting waiting for more numbers is -- everything
11 that Mr. Jones says is absolutely correct, especially the
12 fogginess of the numbers and the inability to come up with
13 clear numbers upon asking, which I guess after a period of
14 time is not too strong a request. But, why the contract
15 is important, it goes to the good faith issue.

16 If a city is not compliant with our
17 diversion mandate, or maybe if their numbers are still
18 twisted or difficult to comprehend, then the good faith
19 issue has to live somewhat large. Now, if a city entered
20 into a 20-year contract, that 20-year contract being
21 somewhat binding, both legally and maybe in another sense
22 binding as far as your own contract with your constituents
23 is concerned, which is more political, you told
24 constituents that you're going to charge them more, all
25 they have to do is engage in a 20-year contract.

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1 I know if I were a city council member,
2 being a politician myself, I would find it very difficult
3 to go back home and say, "The game has changed. Now
4 you're going to have to pay more, and furthermore, we're
5 going to be under compliance order because we didn't do
6 our job right," for a city to try to win it's way out of
7 that difficulty, not necessarily of its own making, is not
8 bad faith.

9 But I don't know. I'm not trying to make
10 Lakewood's case for it. I'm sure you're doing a good
11 enough job of that yourself. I'm saying if this is the
12 case, and a big "if" because I don't know, if it is the
13 case, then the contract that you initially entered into
14 with some prodding from the State in which you charge your
15 own constituents more and you're trying to live by that
16 contract, not only in reliance upon the legal obligations
17 to the SERRF, but in compliance with your own political
18 and moral obligation to your own constituents, goes to the
19 issue of good faith.

20 How much, I've got to see the terms, and
21 I've got to understand what went into the matter when it
22 was negotiated. But I don't have that, and I don't know
23 if it's anybody's fault that we don't have it, and it
24 would be very difficult for me to vote when good faith is
25 at issue, unless I have all the factors bearing on good

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1 faith itself.

2 CHAIRMAN EATON: I have a couple of
3 questions. How many other cities in addition to City of
4 Lakewood are part of the SERRF experiment?

5 MR. CHAMBERS: City of Signal Hill is on
6 the Board, so I presume they're one of the three cities.

7 CHAIRMAN EATON: And are all of the
8 contracts similar?

9 MR. CHAMBERS: I do not know that.

10 CHAIRMAN EATON: Because although I think
11 the contract constrains some, we also have to compare that
12 to the other jurisdictions that are in that same or
13 similar situation. And I'm not sure that they're exactly
14 the same. That is an unknown. But it also the contract
15 -- and the reason for that is that I think the Legislature
16 did make an allowance in the sense that it allowed for 10
17 percent transformation; is that correct? So that was part
18 of the adjustment or turning the vote back.

19 I'm not making a value judgment as to
20 whether or not that was sufficient or not, but I'm trying
21 to start at least a continuum of where it has to be. What
22 troubles me is when I sat in the meeting and you came up
23 with new numbers, when we went back and checked those
24 numbers, the verifying agency, SERRF, in one case, my
25 understanding was that there were 22,000 tons relating to

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1 ash, but it's not ash, it's metal. When we checked, they
2 said the total was 10 tons. That's a 2,000-percent
3 difference. So I would like the City to address that
4 today. Where did you come up with the 2,000-percent
5 difference? Because that to me -- it does maybe go to
6 good faith, but it goes into where we are.

7 I want to settle some of the issues because
8 each time, there's a moving kind of target here, and it's
9 very important, at least for the Board, to understand.
10 It's just beyond comprehension that the antagonism that
11 exists, and just -- so how did we get to 2,000 percent?

12 When we checked with SERRF, who handed us
13 the set of numbers and said there were 22,000 tons. We
14 checked with SERRF and they said there were 10 tons.

15 MS. RAPP: The numbers that we relied on
16 were those numbers that were submitted from SERRF to the
17 Disposal Reporting System. The lower numbers were in the
18 '95 year. The 22,000 tons that you referred to were in
19 the 1997 year. Maybe that's where the confusion is.

20 CHAIRMAN EATON: Staff, can you find out
21 about that and check with SERRF?

22 MR. LEARY: Mr. Chairman, without the chart
23 right in front of me, it's true that 21,000 tons was, I
24 think, provided to staff and to the Board Members that
25 were present at that meeting to demonstrate that new

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1 programs had been --

2 CHAIRMAN EATON: That was due to
3 Bagley-Keene, by the way, that we couldn't have everyone
4 there. So that Mr. Pennington doesn't feel left out, he
5 was protecting our flank.

6 MR. LEARY: But as you might recall, the
7 orientation of that discussion was that we were concerned
8 that the numbers continued to be troublesome because they
9 kept changing from 17 to 43, then back to 22, then up to
10 some elevated number, and without a corresponding increase
11 in program implementation. And it was in the spirit of
12 that conversation that I think those numbers about 21,000,
13 22,000 tons being diverted associated with metals and
14 residue recovery at the SERRF facility were offered as
15 some sort of new program to justify those changes.

16 As you noted, we did contact the SERRF
17 facility, and they commented that they average about 10
18 tons per year of white goods reclaimed at the front end of
19 the SERRF facility, that there are other numbers
20 associated with -- after post-combustion material being
21 generated at the SERRF facility, somewhere in the
22 neighborhood, for 1996 and 1997, 150,000 and 158,000 tons
23 of ash and another 6,800 tons of metals recovered at the
24 tail end of the facility.

25 But as the SERRF facility noted to us, and

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1 we thought in advance of going into it, that tonnage is a
2 hundred-percent attributable to the City of Long Beach.
3 It does not constitute a diversion in any way, shape, or
4 form to the contributing jurisdictions to the SERRF
5 facility.

6 CHAIRMAN EATON: Is that under contractual
7 relations?

8 BOARD MEMBER ROBERTI: That's the ash
9 you're talking?

10 MR. LEARY: The ash, I'm talking about.
11 Metals, there is a slight contribution of return to the
12 jurisdictions.

13 BOARD MEMBER ROBERTI: Is that our standard
14 rule of ash? The ash does not -- is not attributable to
15 the city that generates the trash, garbage, whatever it
16 is?

17 MR. LEARY: Because the facility is located
18 in the City of Long Beach, the ash that is generated by
19 the combustion activity then becomes waste generated by
20 the host.

21 BOARD MEMBER ROBERTI: I'm just asking
22 questions. I'm not trying to make a point, but it strikes
23 me then that that gives sort of boom to the City of Long
24 Beach to get their numbers up because they're using
25 another city's garbage.

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1 MR. LEARY: If they weren't successful in
2 diverting that ash, then that would constitute disposal
3 for the City of Long Beach.

4 BOARD MEMBER ROBERTI: Fine.

5 MR. LEARY: They have their own obligations
6 to deal with that ash.

7 BOARD MEMBER JONES: Mr. Chairman.

8 CHAIRMAN EATON: Mr. Jones.

9 BOARD MEMBER JONES: I know you're in the
10 process of asking questions, but I --

11 BOARD MEMBER ROBERTI: No, I'm just trying
12 to think.

13 (Laughter)

14 BOARD MEMBER JONES: I don't think that
15 this is -- this is a forum to have this discussion about
16 why we need to go under compliance order, but I don't
17 think it's the right place to talk about 19,000 tons
18 versus 10 tons, 7,500 tons versus no tons. I don't think
19 it's the right place. I think the right place for this is
20 under -- where both jurisdictions can sit down and go
21 through this stuff and take the time to make it right. It
22 is not a slap on the hand. This thing can get so
23 sideways.

24 Our meeting was productive. We brought up
25 a lot of things. The Senator had left the building later

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1 in the afternoon. We had instructed, at the request of
2 the City, to have staff work on these numbers, to work on
3 them during lunch. They found the table that was sent,
4 the most recent on September -- I guess 29th. No. I'm
5 sorry. 22nd -- but it didn't have the 7,500 tons. It
6 didn't have the 19,000 tons. So it's this ping-pong match
7 that goes back and forth. He said, she said. We did,
8 they did. It's not constructive.

9 You know, this relationship, we try very
10 hard to foster positive relationships with cities and try
11 to minimize what the issues are around a compliance order
12 to try to let people know that we have to work through
13 these things and move on to the next step.

14 But clearly this can't be fixed in two
15 weeks, not with the level of the lack of clarity around
16 some of these issues that really need to be sat down,
17 looked at, validated. We're not just spouting numbers.
18 This Board has not just been about numbers. It's been
19 about good faith efforts with numbers used as an
20 indicator. The numbers have gone from minus 3 to 18 to 7
21 to 48, depending upon what set of numbers you use.

22 So I know you guys can come up with another
23 set of numbers in two weeks. There's no doubt. I think
24 they would be as good as you could do in two weeks. But I
25 don't know that that's fair to everybody else, and I don't

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1 know this to be punitive. I don't want us to see it or
2 have it be seen as punitive. I want you to use that time
3 to try to rectify what is clearly a skewed situation, and
4 this was a mechanism that we've used for an awful lot of
5 jurisdictions, and it just makes sense to me that we stay
6 on the course because my level of discomfort with the
7 districts in numbers between -- from week to week, I've
8 made pretty clear in the meetings that it bothers me that
9 our staff is given one set of numbers and the next week
10 there's an additional -- in the case of 1997, there's an
11 additional 26,000 tons of diversion that we didn't even
12 know about. But then when we ask the question, we can't
13 get the right answer. So we just may be looking at the
14 right things. Maybe take this time to fix that.

15 But I think out of fairness to everybody,
16 we ought to move on with this thing, and my recommendation
17 would be to do it under the guise of a compliance order.

18 CHAIRMAN EATON: Let me ask the City. What
19 is it that you disagree with, with our staff's review?
20 And if so, what is it in two weeks that you're going to do
21 differently? Are you going to create a new waste
22 generation study?

23 MS. RAPP: Well, we are --

24 CHAIRMAN EATON: I'm asking a series of
25 questions. They're going to be yes-or-no questions. I'm

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1 trying to narrow the issues.

2 Are you going to use one of our approved
3 methods?

4 MS. RAPP: Yes, I believe we will.

5 CHAIRMAN EATON: And have you used those in
6 the past?

7 MS. RAPP: Yes.

8 CHAIRMAN EATON: And the calculations came
9 out how?

10 MS. RAPP: They came out certainly more
11 favorable than this last round of calculations. We
12 believe that our number will be somewhere between 15 and
13 18 percent for 1995.

14 CHAIRMAN EATON: And you've received a
15 reduction already?

16 MS. RAPP: That's right.

17 CHAIRMAN EATON: So you're still short.

18 MS. RAPP: That's right.

19 CHAIRMAN EATON: So what is missing now
20 that wasn't in your last submission --

21 MS. RAPP: Our last submission --

22 CHAIRMAN EATON: -- to our staff?
23 That's -- I'm trying to narrow it so we don't get out
24 there and have a shotgun approach. What is it that you
25 are contending isn't there?

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1 MS. RAPP: In the submittal that we made in
2 August of 1998, we requested an adjustment to the tonnage
3 in our base year. When we work with staff over the next
4 couple of weeks, that's what we will be focusing on.

5 CHAIRMAN EATON: And how will that -- and
6 that's the only issue?

7 MS. RAPP: That's the issue -- main issue
8 that we will focus on, yes.

9 CHAIRMAN EATON: You said it's the main
10 issue. I'm asking what other issues. I'm trying to
11 narrow for the Board its focus because quite frankly, I
12 was upset, and I know that there was time constraints, but
13 we get your letter at 4:05. We had talked last Thursday
14 that all of us were travelling down here. I want to have
15 sufficient time for our Board staff and to review the
16 material and also have a discussion, quite frankly, with
17 you back and forth. If we have it at 4:05, an hour before
18 the close of business on a day that we are travelling,
19 that's not sufficient. So if we were able to look into
20 the future -- so we've got August 1998. What else?

21 MS. RAPP: Well, that's what we'll focus
22 on, the adjustment to the base year tonnage.

23 CHAIRMAN EATON: And staff, we've already
24 looked at that or is there a problem there? I'm just
25 trying to see where we are.

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1 MR. POULSON: After having discussions with
2 J. Michael Huls, I looked back at the 1995 through 1997
3 annual report, and they wanted to adjust their reporting
4 year generation to 94,903 tons for the base year
5 generation, for the 1990 base year and then also --

6 BOARD MEMBER JONES: How much? 94 what?

7 MR. POULSON: 94,903 tons.

8 BOARD MEMBER JONES: For what year?

9 MR. POULSON: For 1990, the base year.
10 They had already submitted adjustments to their reporting
11 years for 1995 through 1998, and when I went back through
12 and recalculated those numbers after we had our meeting on
13 October 21st, and the numbers that I calculated for 1995,
14 it would give them 17-percent diversion rate. One of the
15 concerns, though, that I have is when you adjust your base
16 year, you don't just change the 1995 reporting year, you
17 change all subsequent reporting years as well. And there
18 would still have jumps in the diversion rates, and that
19 would give them a 1997 diversion rate of approximately 49
20 percent and a 1998 diversion rate of approximately 45
21 percent.

22 One of our concerns is you have these large
23 jumps in diversion rates without showing additional
24 programs, because the last program they implemented was in
25 1995. And 50 percent of their programs for implementing

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1 were started before 1990. So we have this concern on
2 staff level of these large jumps in diversion rate and
3 putting them almost at the goal without showing that in
4 the programs with additional implementation. So we still,
5 even with the changes, we think there would still be
6 concerns on the accuracy of the numbers, and we would
7 recommend that they do another -- some other adjustment
8 that would give them much more accurate 1998 numbers that
9 we could work from to look at their 2000 goal.

10 CHAIRMAN EATON: Is that a fair response?
11 I just want the City -- I'm trying to sort of follow the
12 ping-pong ball back and forth.

13 MS. RAPP: I believe that Zane has got the
14 numbers very close.

15 CHAIRMAN EATON: -- the idea that there's
16 been no new programs since 1995.

17 MS. RAPP: I think that you have to focus
18 also on the fact that programs come up to speed,
19 additional education happens, we work more with the
20 community. Simply because we haven't implemented new
21 programs, we've expanded them and we've pushed them and
22 educated the community, and I think that could certainly
23 account for increases in the diversion.

24 CHAIRMAN EATON: So how would the contract
25 issue solve the problem if it's just where you go from 17

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1 to 35? It seems the contract is not really a determining
2 factor because really what we're looking at --

3 BOARD MEMBER ROBERTI: I'm --

4 CHAIRMAN EATON: -- and I'm trying to
5 figure out where we are.

6 BOARD MEMBER ROBERTI: If they come back
7 with the number numbers, I'm looking for two things. One,
8 restructuring of the numbers, polite way of looking at it;
9 and two, the contract. I'm looking for two things.
10 They're related but not the same.

11 CHAIRMAN EATON: Right. And I'm just
12 trying to narrow that down, if and when we get the Board
13 votes today, whatever, to try and figure out what is it so
14 we don't go through the same sort of -- I'm looking to
15 narrow the issues, quite frankly, and I think that's
16 what -- Mr. Jones.

17 BOARD MEMBER JONES: Mr. Chairman, I think
18 that this was one of the issues that I had a problem with
19 with the L.A. Fix. It is not -- I had a conversation with
20 your council member. I don't care if you have a good
21 curbside recycling program or not, but when you guys
22 invited me there, you said give us some ideas. So I
23 talked about green waste, I talked about other things,
24 always cognizant of the fact that you had made a
25 commitment to deliver, I think it was 65 percent of your

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1 wastestream or -- what was it?

2 MS. RAPP: I think it was 75.

3 BOARD MEMBER JONES: 75. But I think it's
4 interesting in that to change the base year to 94,903 and
5 achieve 49 percent diversion of wastestream for future
6 years because of that base year adjustment when, by your
7 own numbers, you've diverted -- and we'll JUST say in 1998
8 to give you the benefit of the doubt -- 419 tons of
9 newspaper, 153 tons of cardboard, 4 tons of white paper, a
10 ton of computer paper, a ton of ledger, a quarter ton of
11 mixed paper, 3 tons of telephone books, 186 tons of glass,
12 25 tons of plastic, 71 tons of aluminum, another 35 tons
13 of newspaper, 15 tons non-CRV glass, 15 tons of glass, 4
14 tons of plastic, 31 tons of aluminum -- these were all
15 non-CRV -- ADC, alternative daily cover, 219 tons, 92 tons
16 of Christmas trees, 17 tons of tree contracts, 650 tons of
17 street sweepings, 254 tons of grasscycling, and 1,500 tons
18 of diverted salvage.

19 That doesn't add up to 44,000 tons. But
20 in fact, 49 percent of the wastestream would be 44,000
21 tons. And all I'm trying to say is the integrity of the
22 programs aren't in question. If they would be in your
23 city, that's fine, but to take the number -- which is kind
24 of funny. If you go from 94,903 and you look at what you
25 were disposing of in 1990, (inaudible) because you're

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1 raising it a huge percentage and you've got that 30
2 percent diversion means -- or that 60 or 75 percent
3 delivery, you may not have met your delivery in that first
4 year by changing this number as much as you did.

5 And all I'm saying is these are using your
6 numbers, without the asphalt. I didn't use the asphalt
7 and I didn't use the ash, but we can and we should if we
8 need to. But you know, to take the base year to 94,000 so
9 you can be at 49 percent needs -- I need to feel pretty
10 comfortable with that and I don't. I think the time it
11 would take to justify this lends credibility to your
12 programs and credibility to every other city in the
13 State's programs.

14 CHAIRMAN EATON: Where are they at base
15 year now to '94?

16 MR. POULSON: The current base year is
17 84,832, so basically another 10,000.

18 BOARD MEMBER JONES: 84,842?

19 MR. POULSON: 84,832, and from to 94,903.
20 That's what the requested adjustment is.

21 BOARD MEMBER JONES: Mr. Chairman.

22 CHAIRMAN EATON: Mr. Jones.

23 BOARD MEMBER JONES: I understand this may
24 not pass, but if there is no more discussion, I want to
25 make a motion.

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1 CHAIRMAN EATON: Is there any more
2 discussion that I'm not aware of? Okay.

3 BOARD MEMBER JONES: Mr. Chairman, I'd like
4 to move adoption of Resolution 1999-554 with the
5 appropriate findings to indicate that the Board does not
6 approve the requested base year and reporting year
7 corrections, accepts the staff findings that the
8 jurisdiction is making progress in implementing it's SRRE
9 but cannot determine if it is meeting diversion
10 requirements due to incalculable or inaccurate data, and
11 is issuing a compliance order.

12 BOARD MEMBER PENNINGTON: I'll second.

13 CHAIRMAN EATON: Mr. Jones moves and
14 Mr. Pennington seconds that we adopt Resolution 1999-554.
15 I'm not very telepathic, but I do believe that we should
16 call the roll on this one.

17 BOARD MEMBER ROBERTI: (inaudible) just a
18 second.

19 (Laughter)

20 CHAIRMAN EATON: Okay. I was just
21 thinking -- I think we'll have to call the roll on this
22 one.

23 Madam Secretary, please call the roll.

24 BOARD SECRETARY: Board Members Jones.

25 BOARD MEMBER JONES: Aye.

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1 BOARD SECRETARY: Pennington.

2 BOARD MEMBER PENNINGTON: Aye.

3 BOARD SECRETARY: Roberti.

4 BOARD MEMBER ROBERTI: No.

5 BOARD SECRETARY: Chairman Eaton.

6 CHAIRMAN EATON: Aye.

7 Senator Roberti, I think that you probably

8 want to make a motion.

9 BOARD MEMBER ROBERTI: I want to make a

10 motion that we review Item -- what's our item number?

11 CHAIRMAN EATON: It's Item Number 29.

12 BOARD MEMBER ROBERTI: Item 29 at the next

13 Board meeting and that the City of Lakewood be requested

14 to come up with numbers reflecting their diversion rate,

15 and that both the City of Lakewood and our staff be

16 directed to discuss the contract with the SERRF and its

17 relationship to good faith effort in compliance with the

18 diversion rate at that time.

19 BOARD MEMBER PENNINGTON: I'll second.

20 BOARD MEMBER JONES: I'll second.

21 CHAIRMAN EATON: All right. And I will --

22 BOARD MEMBER ROBERTI: At the next trio

23 date of meetings. And I might add that I'm not going to

24 be here on the 15th, but I will be here on the 16th and

25 17th.

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1 BOARD MEMBER PENNINGTON: We should take it
2 up on the 15th, then.

3 (Laughter)

4 BOARD MEMBER ROBERTI: I can't even
5 complain about that because I've been known to do that on
6 occasion. Not too often, but on occasion.

7 CHAIRMAN EATON: You can say a lot of
8 things about this Board, but candor is also one of the
9 strong points.

10 BOARD MEMBER JONES: I wanted to ask a
11 question of the maker of the motion. To come up with the
12 new numbers, can we add the word "verifiable"?

13 BOARD MEMBER ROBERTI: Yes, please.

14 BOARD MEMBER JONES: Thank you.

15 CHAIRMAN EATON: If we can just -- before
16 we go with that, there were three seconds. I'll take
17 Mr. Pennington's second because he was the first second.
18 As a Board, do we want to set parameters in terms of being
19 able to get the numbers to the staff so we're not like on
20 that Friday, whether you're here or not, Senator, I don't
21 want to do that, but we should at least have an initial
22 submission of the calculations so that we can -- at least
23 you're not being tracked down over the weekend.

24 BOARD MEMBER ROBERTI: Yes. I understand
25 that. How about something like constant contact -- not

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1 constant contact, but continuous contact between staff and
2 representatives of the City of Lakewood in the drafting of
3 the numbers? Since we're talking about two weeks away,
4 that I suggest as like almost every day.

5 CHAIRMAN EATON: And with an approved Board
6 method for calculating?

7 BOARD MEMBER ROBERTI: Yes.

8 BOARD MEMBER PENNINGTON: Fine.

9 CHAIRMAN EATON: Senator Roberti moves --

10 BOARD MEMBER ROBERTI: I move.

11 CHAIRMAN EATON: -- and Mr. Pennington
12 seconds that we continue this matter to our November Board
13 meeting with the following parameters: That the City of
14 Lakewood and Board staff be in constant communications
15 with regard to these numbers; that the Board-approved
16 method be used for the calculations; and that any and all
17 numbers and/or information that may be submitted in order
18 to try and resolve this matter be verifiable, as Mr. Jones
19 stated, under our staff procedures. I think that's framed
20 fairly --

21 BOARD MEMBER ROBERTI: I don't want to lose
22 sight of the other part of my motion which deals with the
23 good faith, the existing contract with the SERRF.

24 CHAIRMAN EATON: Correct.

25 BOARD MEMBER ROBERTI: Because it goes to

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1 good faith, and I would like input from both City of
2 Lakewood and our staff on that.

3 CHAIRMAN EATON: And that that be part and
4 parcel --

5 BOARD MEMBER ROBERTI: -- copy of the
6 contract.

7 CHAIRMAN EATON: With that, Madam
8 Secretary, please call the roll.

9 BOARD SECRETARY: Board Members Jones.

10 BOARD MEMBER JONES: Aye.

11 BOARD SECRETARY: Pennington.

12 BOARD MEMBER PENNINGTON: Aye.

13 BOARD SECRETARY: Roberti.

14 BOARD MEMBER ROBERTI: Aye.

15 BOARD SECRETARY: Chairman Eaton.

16 CHAIRMAN EATON: Aye.

17 BOARD MEMBER JONES: Mr. Chairman.

18 CHAIRMAN EATON: Mr. Jones.

19 BOARD MEMBER JONES: If this thing
20 continues under SB 1066, jurisdictions have got to have
21 approved numbers to get extensions or be on compliance.
22 So I want people to understand what is at stake here
23 because we cannot issue an extension on 1066 for the year
24 2000 unless jurisdictions have either gone on compliance
25 or met the mandate. And then it's not compliance orders,

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1 then it's fines. So I just thought I would bring that up
2 and let people know what they're doing.

3 BOARD MEMBER ROBERTI: Please explain that
4 to me. If 1066 -- assuming nothing ever happened between
5 now and the end of the year --

6 BOARD MEMBER JONES: Right. If we always
7 had a 3-2 vote --

8 BOARD MEMBER ROBERTI: Somebody is in
9 violation of 1066.

10 BOARD MEMBER JONES: Well, no. They
11 couldn't take advantage of 1066 because part of the law of
12 1066 is they have to have an approved thing and show good
13 faith for them to get an extension. And there's going to
14 be other jurisdictions, and I think it's important that we
15 tie these things together because we're not the bad guys
16 here. We're trying to get people to move on. And under
17 1066, people can't move on for six years, but there are
18 certain things that have to be in place to get there.

19 You know, we can fight these little wars,
20 but we may end up losing the battle or somebody may end up
21 losing the battle, and they just need to be aware of it.

22 BOARD MEMBER PENNINGTON: Mr. Chairman,
23 just to reiterate the point about being advised as to
24 time. I certainly encourage the City of Lakewood to do
25 that. I didn't get this letter until this morning. I

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1 really -- I wasn't involved in the meeting and as you
2 correctly --

3 CHAIRMAN EATON: I will gladly give up any
4 future space to you.

5 (Laughter)

6 BOARD MEMBER PENNINGTON: I know. I
7 realize that, but I'm just saying that I was not in the
8 meeting, and as you indicated, because of the Bagley-Keene
9 Act. I couldn't have been involved in the meeting, but to
10 be informed about this stuff the day of the hearing is not
11 a good deal.

12 CHAIRMAN EATON: Just to kind of -- thank
13 you, Mr. Pennington -- clarify the issue. One of the
14 reasons why when, back in May, when everything came before
15 the Board and there was all of this concern about the
16 Board changing its policy and direction and what have you,
17 one of the reasons that the road map that was laid out by
18 the Legislature and Senate Bill 1066 was sort of having to
19 go back before we can go forward, which is sometimes the
20 case. As we did that motion, we did go backward to go
21 forward, and so part of that was so that we weren't
22 sitting in next year with -- and I believe since September
23 we have gone through roughly how many of these that were
24 sort of -- still sort of hanging out there, and by that I
25 don't mean to make -- some hundred, 110 or so?

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1 MR. LEARY: Easily.

2 CHAIRMAN EATON: If we hadn't done those,
3 those jurisdictions, once that process is established,
4 next year would have been, through no fault of anyone,
5 perhaps ineligible because we hadn't gone back through.
6 Part of our exercise is to go back through so we can go
7 through. It's almost like croquet. We have to go through
8 the one sort of hoop before you can hit the ball to the
9 next one. So that's what we did, and that's -- I think,
10 Mr. Jones, that's what you were trying to talk about the
11 City of Lakewood. Rather than get penalized on a
12 technicality that they couldn't be eligible or any
13 jurisdiction not be eligible for the extension process,
14 which is another whole situation, we've gone back through
15 and done that. And I think that's where the staff has
16 gone back and some of the jurisdictions have recognized
17 that as well.

18 I don't know if that clears it, but -- so I
19 hear a number of growling stomachs out in the audience.
20 We have only a few items remaining, I think -- one, two,
21 three, four -- eight.

22 Why don't we reconvene at approximately
23 2:00 and try and knock those out.

24 MR. CHANDLER: I'm not sure you voted on
25 the motion.

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1 BOARD MEMBER PENNINGTON: We voted on the
2 motion.

3 MR. CHANDLER: I didn't catch it. Sorry.

4 CHAIRMAN EATON: Without objection,
5 substitute the previous roll call. Hearing no objection,
6 so shall be ordered.

7 MS. TOBIAS: Not the previous roll call.

8 BOARD MEMBER JONES: The previous roll call
9 was three to one.

10 (Laughter)

11 CHAIRMAN EATON: You got these guys
12 listening now here, Senator. Okay.

13 Madam Court Reporter, did we do the roll?
14 We did the roll? Okay. So we'll break until 2:00.

15 Thank you, Mr. Chandler.

16 (Lunch recess taken.)

17 CHAIRMAN EATON: Welcome back to this
18 afternoon's proceedings.

19 I'm going to start with Item Number 37. We
20 left off after 32, but 33, 34, and 35 were on consent, so
21 therefore -- 36 was pulled and continued until the
22 November meeting. Therefore, Item Number 37,
23 consideration of a revised Solid Waste Facility Permit for
24 BFI's Recyclery, Santa Clara County.

25 Before we begin that, any ex partes to

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1 report?

2 BOARD MEMBER PENNINGTON: Mr. Chairman, I
3 have none.

4 BOARD MEMBER JONES: No.

5 CHAIRMAN EATON: I just have one,
6 Mr. Jones, MS Management on the landfill bioreactor.

7 Okay. Senator Roberti?

8 BOARD MEMBER ROBERTI: I can't remember.
9 No. I'm told no.

10 MR. DE BIE: Good afternoon, Chairman
11 Eaton and Board Members. I'm Mark DeBie with the
12 Permitting and Enforcement Division. Ms. Nauman is unable
13 to be here today because of an illness in the family, so
14 she asked me to bring the next two items to you.

15 This first item considers the revised Solid
16 Waste Facility Permit for the BFI Recyclery in Santa Clara
17 County. The material recovery facility is owned and
18 operated by Browning Ferris Industries of California, Inc.
19 The proposed permit accounts for various equipment to
20 operate including a new commercial waste sorting line; a
21 new household hazardous waste unit for handling paint, oil
22 and batteries; on-site grinding of green material which is
23 then sent to Newby Island for composting at the composting
24 facility there; and it will allow an outdoor storage of
25 recyclable materials.

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1 All of the findings required by Board staff
2 to recommend concurrence have been made. Therefore, staff
3 recommends the Board concur in the issuance of Solid Waste
4 Facility Permit Number 43-AN-0014.

5 This concludes staff's presentation. The
6 LEA, Rich Archdeacon, was here for the whole morning and
7 seems to be coming back late from lunch, but he was here
8 to answer any questions. Hopefully he'll come in.

9 Otherwise, this concludes staff's
10 presentation.

11 CHAIRMAN EATON: Any questions?

12 BOARD MEMBER JONES: Mr. Chairman.

13 CHAIRMAN EATON: Mr. Jones.

14 BOARD MEMBER JONES: I would like to move
15 adoption of Resolution 1999-99 for consideration of a
16 revised Solid Waste Facility Permit for BFI's Recyclery in
17 Santa Clara County.

18 CHAIRMAN EATON: I'll second that motion.

19 Mr. Jones moves --

20 BOARD MEMBER PENNINGTON: I'll second it.
21 Wait just one second.

22 MS. COVINGTON-WEBB: There was an error on
23 the resolution number. It should be 575.

24 BOARD MEMBER JONES: 1999-575.

25 BOARD MEMBER PENNINGTON: I see. The

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1 actual resolution says 1999-99. It should say 1999-575.

2 CHAIRMAN EATON: Perhaps, Mr. Jones, you
3 want to begin all over again.

4 BOARD MEMBER JONES: Mr. Chairman, I would
5 like to move adoption of resolution 1999-557 consideration
6 of a revised so much number 43-AN-0019 for the BFI
7 Recyclery in Santa Clara County.

8 CHAIRMAN EATON: Mr. Jones moves and
9 Mr. Pennington seconds that we adopt Resolution 1999-575.

10 Madam Secretary, please call the roll.

11 BOARD SECRETARY: Board Members Jones.

12 BOARD MEMBER JONES: Aye.

13 BOARD SECRETARY: Pennington.

14 BOARD MEMBER PENNINGTON: Aye.

15 BOARD SECRETARY: Roberti.

16 BOARD MEMBER ROBERTI: Aye.

17 BOARD SECRETARY: Chairman Eaton.

18 CHAIRMAN EATON: Aye.

19 Item number 38, last in this cluster
20 dealing with permits, semiannual update and publication of
21 the inventory of solid waste facilities violating state
22 minimum standards.

23 MR. DE BIE: This is an informational item.

24 Its function is to report to the Board as well as to be
25 used as the official method to publish the inventory of

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1 sold waste facilities which violate state minimum
2 standards.

3 I would like to point out that there's a
4 correction to the agenda item in two areas. First, on the
5 first page of the agenda item under the "summary" section
6 and "inventory update" subsection, it indicates that the
7 total number of facilities to be included is 19. The
8 actual number is 18. And then again on page 2 under
9 "findings," again it says 19 and it should be changed to
10 18. The table that is an attachment indicates 18
11 facilities. This is a typographical error in the
12 narrative.

13 PRC 44104 requires the Board to publish
14 this inventory twice annually. The last time it was
15 published was April of 1999. 18 facilities will appear on
16 the inventory. This is down from 24. Of the 18 that will
17 appear on the inventory, 14 are there because of long-term
18 landfill gas violations.

19 All of the facilities are making progress
20 towards compliance and many, if not all, are operating
21 under some form of enforcement order at this time. The
22 inventory will be posted on the Board's web page in the
23 next few days.

24 This concludes staff's presentation. If
25 there's any questions --

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1 CHAIRMAN EATON: Any questions? No action
2 is required.

3 BOARD MEMBER JONES: Mr. Chairman.

4 CHAIRMAN EATON: Mr. Jones.

5 BOARD MEMBER JONES: I think that -- first
6 off, I think we need to congratulate our P and E staff for
7 what has been a steadily declining long-term violator list
8 in this state, but I think that we need to have a
9 discussion at some point, maybe as an agenda item.

10 We've got 11 gas violations here. About
11 eight of those have installed gas recovery systems and
12 they're just working on tuning that up to get gas levels
13 down.

14 We have three, though, that the way to
15 remediate this gas problem is they want to buy more land,
16 which is an acceptable procedure, but we may want to have
17 a discussion at some point as to how much land -- you're
18 still emitting gas, you're still generating gas, you're
19 not putting in anything to mitigate that other than buying
20 more property.

21 Our rules and regulations measure gas at
22 the boundary, so by extending the boundary, you don't have
23 a gas violation. You still are generating an awful lot of
24 gas in some of these cases. I think we need to have a
25 discussion item on that, what the impacts are and what the

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1 legal requirements would be, because obviously it is an
2 unfair playing system if eight out of the 11 have put in
3 gas systems to help minimize gas, and three, all public
4 entities are -- in one case we know of -- condemning land
5 to take it away, and they had resisted changing the
6 boundary line for some reason.

7 But I think we need to have this discussion
8 from a health and safety standpoint and really understand
9 what we're trying to do here. It doesn't make a lot of
10 sense for eight of them to put in gas systems and three to
11 buy more property or condemn property so they don't have
12 to put in a gas system.

13 BOARD MEMBER PENNINGTON: I agree with
14 Mr. Jones. I think the idea of buying the property isn't
15 really controlling the situation. We really need to look
16 at that.

17 CHAIRMAN EATON: Would you like perhaps
18 maybe in early January?

19 BOARD MEMBER JONES: Yeah.

20 CHAIRMAN EATON: Wouldn't be too late or --

21 BOARD MEMBER JONES: No.

22 BOARD MEMBER PENNINGTON: It might be.

23 (Laughter)

24 CHAIRMAN EATON: I'm not going there.

25 BOARD MEMBER JONES: There's two of us on

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1 this end that it might be too late. We can always sit in
2 the audience.

3 (Laughter)

4 BOARD MEMBER ROBERTI: January -- well,
5 that's right.

6 BOARD MEMBER JONES: In December.

7 BOARD MEMBER PENNINGTON: Believe me, I
8 know exactly --

9 BOARD MEMBER ROBERTI: January you're safe
10 no matter what happens unless the --

11 CHAIRMAN EATON: Unless Lakewood is not
12 resolved, in which case we're going to be back as the
13 alumni team.

14 (Laughter)

15 BOARD MEMBER ROBERTI: The Masters.

16 (Laughter)

17 CHAIRMAN EATON: Masters, exactly. But --

18 BOARD MEMBER JONES: I think January or
19 February.

20 CHAIRMAN EATON: Or -- why don't we see if
21 you could perhaps just let us know informally how long it
22 would take to put that item together and in December
23 initiate the discussion, but I think that January may be a
24 more appropriate time.

25 MR. DE BIE: Well, P and E staff have been

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1 working with our Legal Office on a general discussion item
2 about enforcement issues, long-term gas violations. We're
3 thinking about including a discussion relative to terms
4 and conditions of the permits. So I think we can add this
5 into the list as well.

6 CHAIRMAN EATON: Maybe you can bring that
7 forward. When can you bring that forward?

8 MR. DE BIE: January.

9 CHAIRMAN EATON: So that would be
10 appropriate, then.

11 MR. DE BIE: January would work for us.

12 BOARD MEMBER JONES: Mr. Chairman.

13 CHAIRMAN EATON: Mr. Jones.

14 BOARD MEMBER JONES: I don't have any
15 problem with that being included, but terms and
16 conditions, jurisdictions that haven't fully funded
17 closure post-closure, those types of things are obvious,
18 that we need to come up with a policy to deal with those.
19 This landfill gas, while it can be a part of that, needs
20 to have a section unto its own because it does present --
21 somebody not funding a closure post-closure plan is a
22 problem, but it's not a health and safety -- it might not
23 be a health and safety problem. Landfill gas being
24 generated at high rates inside of a boundary might be,
25 so --

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1 MS. TOBIAS: It does raise interesting
2 issues. It is allowed under RCRA, so it is something we
3 would want to -- we may even want to do a workshop on it.
4 There's a lot of facilities that have relied on that and
5 have done so in the past. So you're going to want to
6 balance the fact that entities have been allowed to do it,
7 and will it be fair to say to others well, we're no longer
8 recommending that.

9 I think it's certainly something we can do
10 as both education in terms of the gas issues and then look
11 at whether the Board wants to continue that as one of the
12 solutions to a gas violation. We'll look at it and let
13 you know whether it seems most prudent to bring it back
14 with the enforcement item that we've been working on with
15 P and E or whether it would be a separate one.

16 CHAIRMAN EATON: Okay. Thank you.

17 MR. DE BIE: Thank you.

18 CHAIRMAN EATON: Administration and Policy,
19 Item Number 40, consideration of a landfill operations
20 training/certification program.

21 MS. PACKARD: Good afternoon, Chairman
22 Eaton and Board Members. My name is Rubia Packard with
23 the Policy and Analysis Office. I'm here to present
24 Agenda Item 40 which is consideration of a landfill
25 operations training and certification program.

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1 Staff have been working with Board Member
2 Jones in a work group with representatives from industry
3 and LEAs and other staff for sometime now on this program,
4 and we're here today to propose that in order to achieve
5 the objectives that were laid out for this type of
6 program, that the Board consider further development and
7 implementation of a voluntary, two-pronged approach to a
8 landfill operation's training and certification program.

9 The first phase would be, or the first part
10 would be, that Board staff would work with SWANA to
11 incorporate California-specific information into the
12 Manager of Landfill Operations course; and the second part
13 would be a separate two-day training certification program
14 that would be developed and implemented by staff, along
15 with the assistance of a contractor, focusing on
16 site-specific issues based upon the most frequently
17 violated state minimum standards.

18 The first step with SWANA would be to
19 continue negotiations and discussions with them to augment
20 the existing MOLO course with California-specific
21 information and requirements; and in the second step, we
22 would -- and this is tied to a contract concept that
23 you'll be considering tomorrow. We'll be looking at
24 selecting a contractor to assist staff in organizing the
25 training sessions that would comprise the two-day training

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1 throughout the state on the California operations.

2 Certification under this program as we
3 proposed it will be voluntary initially during what we're
4 kind of considering a pilot phase, and then determining
5 later on, based upon the success of the program and the
6 effectiveness of the program, consideration by the Board
7 at a future time of making the certification voluntary.

8 Staff is recommending option one in your
9 agenda packet, which is the Board implementation of a
10 voluntary landfill operations training and certification
11 program.

12 And that concludes my presentation. If you
13 have any questions, I would be happy to answer them.
14 Also, I believe Mr. Jones has some comments to make in
15 addition to the presentation.

16 BOARD MEMBER JONES: Mr. Chairman, my
17 comments are going to be brief. I would like to thank
18 Rubia. I gave everybody an update at the last Board
19 meeting and SWANA, in fact, agreed to work with us. They
20 have asked if we wanted to provide staff to work on a
21 totally new updated training system for SWANA.

22 It would be my recommendation that we have
23 staff working -- staff assigned to this program. We ought
24 to have them be part of that work group to help develop
25 that.

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1 The only thing I would like to ask is that
2 in this resolution, which I'm going to put forward, on the
3 "now, therefore, be it resolved that the California
4 Integrated Waste Management Board approves the
5 implementation of a --," I'd like to say, "Four-year,
6 voluntary landfill operator training certificate program
7 as described in the staff report," and the reason I'm
8 asking for a four-year commitment -- it's not for a
9 four-year commitment of money. It's a four-year
10 commitment so we know we're going down a road that isn't
11 going to change, that we're going to continue to have a
12 commitment from this Board to work on landfill operator
13 certification as we work through the mechanics of this.

14 Redesigning the SWANA book could take us a
15 year and a half, two years, and I would hate to have to
16 bring this back every year. And maybe I don't have to.
17 Maybe this is a commitment based on this resolution that
18 we're just going to go forward from this day forward, and
19 if that's what Board Members want, that's fine. It just
20 seems like we ought to commit time to this thing.

21 CHAIRMAN EATON: Is it someday you hope to
22 have it mandatory?

23 BOARD MEMBER JONES: Actually, Evan Edgar
24 is in the audience. He was part of the work group, but
25 members of the work group, including -- and this came from

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1 the public entities that run some of the best landfills in
2 the state of California, asked and reiterated at the
3 meeting in SWANA that if we could get the bugs out of this
4 and working in a way that both sides are happy, that they
5 would actually put a legislative proposal forward to make
6 this or endorse anything we did to make this mandatory
7 because they see they want to go prudently, work through
8 the bugs, but then at some point make it mandatory that
9 people, in fact, are going to have to pass a landfill
10 operator certification test if they're going to work on
11 the landfills in the state of California.

12 With the changes in SWANA where the BFIs of
13 the world, the Waste Managements, the Norcals, the Allieds
14 that have in-house training, SWANA is already working on a
15 program where they give the test, a SWANA test, to people
16 that have gone through in-house training, and if they pass
17 that test, then they become SWANA certified, which falls
18 right into what we want to do for not duplicating work and
19 not putting an unfair burden on an infrastructure that's
20 already in place within the companies, but still
21 protecting public health and safety and raising the bar of
22 compliance, operator knowhow.

23 CHAIRMAN EATON: Mr. Pennington, I didn't
24 mean to cut you off. Were you getting ready to say
25 something?

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1 BOARD MEMBER PENNINGTON: Yes.

2 CHAIRMAN EATON: I'm sorry.

3 BOARD MEMBER PENNINGTON: Mr. Chairman, I
4 just think staff needs to be congratulated for this
5 effort. I also think our Board Member, Steve Jones,
6 should be. I know that I asked Steve a few years ago to
7 take this project on, and it is a vital thing for the
8 industry and I think it's -- we owe Steve an
9 acknowledgment of his hard work and congratulations on
10 getting it to this point. I would move the motion, but I
11 think he would like to.

12 BOARD MEMBER JONES: That's all right. I
13 would just assume not do it.

14 (Laughter)

15 BOARD MEMBER PENNINGTON: Then I would be
16 happy to move Resolution 1999-474 of the landfill
17 operations training and certificate program.

18 CHAIRMAN EATON: All right. I'll second
19 the motion.

20 Mr. Pennington moves and Mr. Eaton seconds
21 that we adopt Resolution 1999-474 as amended to establish
22 a quadrant of items.

23 Madam Secretary, please call the roll one
24 more time.

25 BOARD SECRETARY: Board Members Jones.

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1 BOARD MEMBER JONES: Aye.
2 BOARD SECRETARY: Pennington.
3 BOARD MEMBER PENNINGTON: Aye.
4 BOARD SECRETARY: Roberti.
5 BOARD MEMBER ROBERTI: Aye.
6 BOARD SECRETARY: Chairman Eaton.
7 CHAIRMAN EATON: Aye.
8 MS. PACKARD: Thank you.
9 CHAIRMAN EATON: Thank you.
10 Next item, 41, which is the contract
11 concepts, which we will start tomorrow morning. So that
12 will be held over until tomorrow morning.
13 Last section of items for today, Item
14 Number 43, results of audits of newsprint consumers. Item
15 Number 42 coming up was continued.
16 MR. AUSTRHEIM-SMITH: Good afternoon,
17 Mr. Chairman and Members of the Board. My name is Steve
18 Austrheim-Smith of the Waste Prevention and Market
19 Development Division. I'm here this afternoon to present
20 the results of the annual report for newsprint
21 certifications as well as trash bags, and we have a series
22 of items on trash bags that we will be starting with. I
23 offer this as perhaps a way of keeping some of these items
24 straight in your minds of our chronology.
25 Item 43 is the audits for 1997, the

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1 earliest year; Item Number 44 will be the status report
2 for 1998 filers; and Item 45 will be the policy for fining
3 1998 late filers.

4 And with that, Kathleen Marsh will present
5 the results of the 1997 audits.

6 MS. MARSH: At the August 13th, 1998 Board
7 meeting, the Board became concerned about the growing
8 number of exemption requests, so the Board directed staff
9 to audit 20 questionable certifications. Questionable
10 certifications are those that are not supplying the
11 correct supporting documentation at the time that they
12 request the exemptions. Exemptions themselves are
13 recycled-content newsprint not available at a comparable
14 price, recycled-content newsprint that didn't meet the
15 quality standards, or recycled-content newsprint not
16 available at a reasonable time.

17 The results of the audits were one of 20
18 passed. The auditors found that apparently the companies
19 were not keeping the documentation they needed to support
20 their exemption requests, and they were concerned -- the
21 auditors were concerned that the companies did not
22 understand what the legal requirements were.

23 So the auditors recommended to the Board
24 four different things. The first thing was to file the
25 4430, the newsprint certification form, what the term

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1 "use" means. Does it mean -- and this is what I'm going
2 to ask you to supply me to put out to our consumers --
3 does it mean purchasing the paper to print on, or does it
4 mean the company's customers purchasing the paper to print
5 on? In other words, whatever is run through the press or
6 what is not purchased by the companies themselves, the
7 consumers. Does that make sense?

8 Anyway, the second thing is -- the second
9 recommendation is the legal requirements. Apparently the
10 consumers were not aware of what the legal requirements
11 were, which is not the case at all as far as I am
12 concerned because I know every year we have sent them the
13 regulations every time we send them the certification
14 packets. So I'm not sure why they were asking us to do
15 that.

16 The third and fourth recommendations to the
17 Board would be to clarify the requirements for either
18 maintaining price quotes or the reasonable delivery times
19 which are the requirements that we would have our
20 consumers follow in exemptions one and three. And what
21 staff is suggesting, or what staff has decided to do, is
22 put forth a question-and-answer form for all of the
23 consumers, manufacturers and suppliers within newsprint,
24 specifying what exactly is meant by the term "use"
25 providing what the Board directs us at this point in time.

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1 Also, the various other questions that the
2 consumers had asked the auditors, that seemed to be a
3 continual line of questioning through the whole audit
4 process, and in a nut shell that's my report.

5 We were not planning on bringing any kind
6 of decision other than maybe you can help specify what you
7 would want the term "use" to mean simply because this is
8 the very first audit we ever ran within this program.

9 MR. AUSTRHEIM-SMITH: We're not asking for
10 any decision today. If you have comment, that's fine, but
11 not a decision today.

12 MS. MARSH: Okay.

13 CHAIRMAN EATON: For the record, Kathy
14 Marsh from the Markets Division.

15 Okay. Give me an example of where -- the
16 newsprint would be like a local community paper perhaps
17 or --

18 MS. MARSH: It could be anybody.

19 CHAIRMAN EATON: -- would be supplying the
20 paper to the printer. I would think the printer makes he
21 or she's money off the paper that they provide because
22 there's a mark-up with the paper. At least that's always
23 been the case when I've been involved with the printing
24 business from time to time, although it's been small with
25 regard to certain kinds of community papers. We were

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1 never allowed to purchase the paper in advance of that.

2 What situation would that be? Are we
3 talking about the quick presses where you go in and bring
4 your own stock and print a newsletter, or are we talking
5 about -- give us some feel about what you're talking
6 about.

7 MS. MARSH: These would be like larger
8 companies that would print advertising for various
9 agencies or department stores and the like. The
10 department stores would require the various printers that
11 have a particular type of paper and they would buy it from
12 their own manufacturers and supply it to the printer
13 themselves.

14 BOARD MEMBER PENNINGTON: It would seem
15 like, Mr. Chairman, particularly in a large printer,
16 they're not going to have in stock a great amount of stock
17 on hand. They'll have enough to maybe get started, but
18 they're going to buy what they need. Small newspapers
19 definitely buy what they need and don't have a lot of
20 stock material. I don't know. I don't think it makes a
21 lot of difference. Do you think it makes a lot of
22 difference whether you audit them when it's printed or
23 when it's purchased?

24 MS. MARSH: Well, I know some companies are
25 claiming zero recycled-content in use because of that

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1 little kink, and they're confused over the issue as to
2 what should be counted as "use."

3 BOARD MEMBER PENNINGTON: Eventually
4 they're going to print on it.

5 MS. MARSH: I would imagine that for all
6 intents and purposes, what is in 17952, that basically use
7 is use. Whoever is a consumer of newsprint is a person,
8 place, a business that uses newsprint on their presses,
9 although it doesn't specify that directly. And so there's
10 that little question.

11 BOARD MEMBER PENNINGTON: Well, I think
12 there is a presumption of use when you purchase it. If
13 you buy a roll of paper, the assumption is you're going to
14 use it. You're going to print on it. If you're a
15 newspaper, you're going to print your newspaper on it.

16 CHAIRMAN EATON: Mr. Jones.

17 BOARD MEMBER JONES: If you were able to
18 say it's what you purchase, would that have cleared up
19 their issues?

20 MS. MARSH: Well -- Debbie.

21 MS. BORZELLERI: I think that is the issue,
22 that some are trying to claim, and it's been our
23 interpretation consistently that "use" means you purchased
24 it or someone gave it to you to print on. So the way the
25 regulations read right now and the way the statute is, I

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1 think we have to presume that "used" means you either
2 purchased it or you printed it from someone who supplied
3 it to you. I think what Kathy was raising is that we
4 would need to change the regulations if we wanted to say
5 that it was only newsprint that was purchased. I don't
6 think I made that clear. You're still frowning.

7 (Laughter)

8 CHAIRMAN EATON: No. I think it's pretty
9 clear if you read the regulations that "use" means
10 whatever is run through the presses.

11 MS. BORZELLERI: We don't have anything
12 otherwise.

13 CHAIRMAN EATON: It says -- these
14 regulations explain what recycled-content newsprint
15 requirements, "Consumers and suppliers of newsprint."
16 Suppliers of newsprint would be a customer who supplies
17 the newsprint. It's right there. "Must meet and what
18 procedures consumers and suppliers of newsprint as
19 follows:" It says the regulations only pertain to
20 newsprint used within the state of California, and then it
21 goes on to talk about, "A commercial printing and
22 publishing operation as a business located in California
23 which uses newsprint in its printing." It doesn't say
24 whether purchased it or supplied it, it just says uses it.

25 I think plain meaning, at least for

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1 discussion purposes, if they run it through presses, they
2 should report. If it's easier to segregate that whatever
3 they purchase and run through is recycled-content and
4 distinguish themselves or make themselves look good or is
5 it a pass through, I think it is something that would have
6 to probably be amended into the regs if that were the
7 case.

8 MS. MARSH: That's it. Thank you.

9 CHAIRMAN EATON: Item Number 44.

10 MR. AUSTRHEIM-SMITH: Item Number 44 is
11 consideration of the annual status report for the
12 newsprint certification program concerning audits of
13 newsprint consumers for the 1998 compliance year.

14 I think the audit in the title of this
15 indicates (inaudible). This agenda item reports on
16 industry's compliance for the 1998 recycled-content
17 newsprint law. California newsprint consumers
18 collectively reported 61 percent recycled-content
19 newsprint consumed during the reporting year. And if you
20 refer to attachment number 5 attached to this item, you'll
21 see there's been a steady progression in the use of
22 recycled-content, the amount of recycled-content newsprint
23 being used statewide.

24 This is an improvement from 47 percent in
25 1996 to 61 percent in 1998. This level not only exceeds

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1 the 41 percent required for 1998, it also surpasses the
2 year 2000 50-percent requirement. So overall the
3 newsprint industry has done very well.

4 In 1998, the overall compliance rate for
5 filing of the required certification by consumers of
6 recycled-content was 85 percent. That is shown on
7 attachment number 2 attached to your item. There has been
8 a steady growth in the compliance rate as well. It's now
9 85 percent of filers that comply with the newsprint law.

10 Seven newsprint consumers filed
11 questionable certifications. Staff considers them to be
12 questionable because seven newsprint consumers asked for
13 exemptions but did not have documentation supporting their
14 good faith effort. Those are reflected in attachment
15 number 1 of your packet which shows for 1998, 24 filed for
16 exemptions; 1997, 28 did; 1996, 44 did. There's been a
17 slow decline in the number of exemptions requested year by
18 year.

19 There are two options for the Board at this
20 point based on the conclusions of the annual report. One
21 is to direct staff to pursue audits targeting the seven
22 consumers that filed questionable certifications similar
23 to what we did for 1997; or direct staff to continue
24 working with newsprint consumers on a voluntary basis
25 without pursuing audits.

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1 Staff recommends the Board direct staff to
2 proceed with audits of the seven questionable filers for
3 1998.

4 Thank you. That concludes my presentation.

5 CHAIRMAN EATON: Questions? Are any of the
6 seven repeats?

7 MS. MARSH: Yes.

8 MR. AUSTRHEIM-SMITH: Yes. Two.

9 CHAIRMAN EATON: Two out of the seven are
10 repeats?

11 MS. MARSH: Right. At least two. And I
12 know one of them didn't pass last year's audit, just right
13 offhand, and that was the same company that had the zero.

14 CHAIRMAN EATON: Mr. Pennington.

15 BOARD MEMBER PENNINGTON: As far as
16 auditing is concerned, while I am not -- particularly in
17 this instance where they're doing so well, it seems like
18 we shouldn't audit them, but in conversations with CMPA,
19 they seem to be in favor of doing them -- so why don't I
20 move Resolution 1999-398.

21 BOARD MEMBER JONES: I'll second that.

22 CHAIRMAN EATON: Mr. Pennington moves and
23 Mr. Jones seconds that we adopt Resolution 1999-398.

24 BOARD MEMBER JONES: Just a question,
25 Mr. Chairman. Do we need to include those seven names in

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1 this resolution?

2 CHAIRMAN EATON: I'll defer to counsel on
3 that.

4 MS. TRGOVCICH: What we did last year --
5 Caren Trgovcich with the Waste Prevention and Market
6 Development Division. Last year we did not include them
7 by name, we specified the category. In this case, what
8 you're specifying are the questionable filers.

9 BOARD MEMBER JONES: All right.

10 BOARD MEMBER PENNINGTON: And can you break
11 it up, printers as opposed to newspapers?

12 MS. MARSH: You know, I believe I did, and
13 I think it was almost half, 50-50 between newspapers and
14 printers.

15 BOARD MEMBER PENNINGTON: Three and a half?

16 MS. MARSH: Yes.

17 (Laughter)

18 CHAIRMAN EATON: All right.

19 Without objection, we'll substitute the
20 previous roll call. Hearing no objection, so shall be
21 ordered.

22 Item Number 45, my understanding is that
23 Mr. Newton has arrived and I think this is the item he
24 wanted to speak on.

25 BOARD MEMBER PENNINGTON: Yes.

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1 CHAIRMAN EATON: So I think he should be
2 here momentarily. Perhaps we can have staff begin their
3 presentation.

4 BOARD MEMBER PENNINGTON: Sure.

5 MR. AUSTRHEIM-SMITH: Item Number 45,
6 consideration of a policy for enforcement actions against
7 late filers of newsprint certifications for the 1998
8 compliance year.

9 With this item, staff is seeking direction
10 from the Board concerning enforcement action against those
11 who filed late certifications for the 1998 certification
12 year. These certifications are due March 1st of 1999. 46
13 filed late certifications, three were more than 45 days
14 late, and one failed to file at all.

15 There are three options for the Board on
16 this item. Option number one is to proceed with hearings
17 on all 46 late filers; option number two, excuse all late
18 filers for the 1998 certification year and rely on the
19 recently adopted but not yet effective regulations;
20 option three, for 1998, consistent with the newly adopted
21 but not yet effective regulations, excuse late filers that
22 were less than 45 days late, hold public hearings for only
23 three 45-day late filers as well as the one non-filer.

24 Staff has mailed hearing notices to all
25 filers who missed the March 1st deadline in order to be

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1 prepared for whatever the Board decides today. Hearings
2 for all late filers are scheduled for the November 16th
3 and 17th board meeting.

4 That concludes my presentation.

5 CHAIRMAN EATON: Mr. Pennington.

6 BOARD MEMBER PENNINGTON: Well,
7 Mr. Chairman, I certainly think we need to go with option
8 number three and excuse the 45 and hear the three. I
9 don't know where Tom is, but I believe that was their
10 feeling as well.

11 CHAIRMAN EATON: And these would comply
12 with the new regulations that were adopted?

13 MR. AUSTRHEIM-SMITH: Yes.

14 CHAIRMAN EATON: So if we did it the other
15 way, it would be those that were caught between the time
16 we adopted it.

17 MR. AUSTRHEIM-SMITH: That's correct.

18 CHAIRMAN EATON: In terms of fairness. In
19 each one of these, the 46 or 47 would require a separate
20 public hearing; is that not correct?

21 MR. AUSTRHEIM-SMITH: That's correct.

22 CHAIRMAN EATON: I just wanted to make
23 sure. Okay. Well, Mr. Pennington.

24 BOARD MEMBER ROBERTI: Who are the late
25 filers under option three?

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1 CHAIRMAN EATON: The four, I think is what
2 you're asking. Who are the four?

3 BOARD MEMBER ROBERTI: Who are the four?

4 MS. MARSH: Who are the four. The
5 delinquent one is Day and Night, our friends from past
6 apparently, Napa Valley Register, Pizzazz Printing and
7 Cubacore Printing (phonetic).

8 BOARD MEMBER ROBERTI: And have we
9 contacted them?

10 MS. MARSH: Yes, we have.

11 BOARD MEMBER ROBERTI: And what has the
12 general response been?

13 MS. MARSH: Well, Pizzazz and Cubacore
14 really didn't provide any kind of response, and apparently
15 there was some personnel issue. Apparently the person
16 that received the certification had left the office and/or
17 left the business, and the individual that was supposed to
18 have received it did not get it until we sent them a
19 certified letter and then they responded 15, 20 days after
20 that.

21 CHAIRMAN EATON: Had previously they
22 been --

23 MS. MARSH: They had been wonderful
24 previously, and on top of that, Napa had a 98 percent
25 record. So they were almost a hundred percent in

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1 recycled-content newsprint goal.

2 MS. TRGOVCICH: That would be something
3 that you could consider at the time of the public hearing.
4 For purposes of these public hearings that will be coming
5 up, if you choose option three today, you will have an
6 opportunity in that hearing to evaluate a variety of
7 factors in order to determine the penalty level, if any.

8 I think that if you're going to keep with
9 the way the regulations were enacted, that it would not be
10 fair necessarily at this point in time to discuss the
11 merits of one and not the merits of all three.

12 CHAIRMAN EATON: Mr. Newton, we're on your
13 item. We've been waiting all day for you.

14 (Laughter)

15 CHAIRMAN EATON: Give us some words of
16 wisdom.

17 MR. NEWTON: I should have gotten here a
18 few minutes early.

19 BOARD MEMBER PENNINGTON: The 1,500 people
20 that were waiting for you had left.

21 CHAIRMAN EATON: We figured since you were
22 a late filing that perhaps maybe they should leave early.

23 BOARD MEMBER JONES: Mr. Newton probably
24 needs to know that Mr. Pennington is -- I don't know if
25 you put the motion forward or indicated you were going to.

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1 BOARD MEMBER PENNINGTON: I'm about to put
2 it forward, yes.

3 BOARD MEMBER JONES: Looking at the three
4 companies versus the 48 as option three.

5 MR. NEWTON: And I think we're just fine
6 with that. Those three companies, four companies would be
7 CMPA members?

8 MS. MARSH: Yes.

9 MR. NEWTON: And these are folks who have
10 filed less than 45 days late or more than?

11 BOARD MEMBER PENNINGTON: More.

12 MR. NEWTON: More than 45 days late. Then
13 we would endorse that recommendation, but I would like to
14 say that a couple of our members got notices to appear,
15 essentially that there might be a hearing for filing four
16 or five days late, and it's one of our members did, and I
17 think the recommendation of staff is that for that
18 category of late filer, there would be no hearing.

19 BOARD MEMBER PENNINGTON: Right.

20 MR. NEWTON: Then we would start when the
21 regulations kick in next year with the 45-day situation.
22 CMPA would endorse that motion.

23 CHAIRMAN EATON: And we would even go one
24 better. If we were to adopt that option, which is option
25 three, which deals with just the four that were greater

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1 than 45, that we would also instruct staff to notify by
2 mail those -- 46 is it? 43, that they need not appear for
3 a hearing in November as previously notified. That would
4 at least assist the membership and those who are not in
5 membership not to show up.

6 MR. NEWTON: We certainly would appreciate
7 that.

8 CHAIRMAN EATON: Would you also like to put
9 your phone number in there?

10 (Laughter)

11 MR. NEWTON: Absolutely.

12 CHAIRMAN EATON: We'll do that. Just
13 kidding. All right.

14 Mr. Pennington.

15 BOARD MEMBER PENNINGTON: Mr. Chairman, I
16 guess before I move this resolution, I have to go through
17 my routine of saying I am an Associate Member of the CMPA.
18 I have been advised by our legal counsel that there is no
19 conflict and that I can deal with this matter.

20 So therefore, I would move adoption of
21 Resolution 1999-397 as a policy for the enforcement action
22 against late filers of newsprint certification for the
23 1998 compliance year.

24 BOARD MEMBER JONES: I'll second.

25 CHAIRMAN EATON: All right.

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1 Mr. Pennington moves and Mr. Jones seconds
2 that we adopt Resolution 1999-397, which is option three.

3 Without objection, substitute the previous
4 roll call. Hearing no objection, so shall be ordered.

5 Thank you.

6 BOARD MEMBER PENNINGTON: I hope you had a
7 nice drive.

8 MR. NEWTON: It was really a nice drive.

9 (Laughter)

10 CHAIRMAN EATON: Item Number 46.

11 MR. AUSTRHEIM-SMITH: Let's switch gears
12 now and think of trash bags rather than newspapers and
13 newsprint.

14 Item Number 46 is the presentation of the
15 annual summary of plastic trash bag certifications for the
16 1998 reporting year, and this is the first time that staff
17 has brought a report forward to the Board. In the past we
18 have made that report available to regulated members when
19 we mail out the annual certifications the first of every
20 year.

21 This law covers manufacturers and
22 wholesalers that sell trash bags in California. If they
23 don't sell in California, they're not covered. The
24 summary of manufacturers certification: 36 out 58, which
25 is 26 percent, certified to the Waste Management Board.

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1 These are the 36 of the 58 known to staff of the Waste
2 Management Board. 28 of the 35 in California, all of
3 those are in compliance. Eight certified they have not
4 sold regulated trash bags in California.

5 A copy of this report is attached to the
6 following Agenda Item Number 47. That concludes my
7 presentation on the annual staff report. This is an
8 informational item only and was not requesting a Board
9 decision.

10 CHAIRMAN EATON: We would deem it submitted
11 for consideration at a future date.

12 Last item of the day, I believe, if I'm not
13 mistaken, is Item Number 47.

14 MR. AUSTRHEIM-SMITH: This item also
15 concerns trash bags. This item is a consideration of a
16 policy for formalizing the list of companies that are
17 compliant or non-compliant with the recycled-content trash
18 bag certification requirements.

19 Staff is requesting the Board to consider a
20 policy direction regarding the recycled-content plastic
21 trash bag program. Because of new statutory requirements
22 that prohibit state agencies from soliciting, awarding or
23 extending contracts to non-compliant companies, staff is
24 seeking direction from the Board on the process to make
25 the list official prior to publication and the process to

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1 remove non-compliant companies from this list.

2 We feel there are three options for the
3 Board. One is to direct staff to list and de-list
4 companies that comply or do not comply with the
5 requirements of the program; number two, to direct staff
6 to list or de-list companies that comply or did not comply
7 with the requirements of the program upon staff's
8 determination of compliance and non-compliance; and option
9 number three, to adopt a policy for the 1999 reporting
10 period and thereafter that non-compliant companies, late
11 filers, non-filers, and those that did not meet the
12 minimum RPPC mandate be put on the non-compliant list for
13 the duration of the reporting year and remain on there
14 until the following filing period.

15 That concludes my presentation.

16 CHAIRMAN EATON: Which option is staff
17 recommending?

18 MR. AUSTRHEIM-SMITH: Okay. Good point.
19 Staff recommends options two and three and these two
20 options allow staff to --

21 CHAIRMAN EATON: Is that A, one and two or
22 B, one and two?

23 MR. AUSTRHEIM-SMITH: Perhaps I'm reading
24 from a different copy.

25 BOARD MEMBER JONES: A two and B one.

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1 BOARD MEMBER PENNINGTON: That's what ours
2 says is A two and B one.

3 MS. TRGOVCICH: Yes. The agenda item has A
4 two and B one. It would be the staff places the trash bag
5 manufacturers or wholesalers on the list; and that B one,
6 which is the policy for the reporting period beginning
7 1998 and thereafter for which the certification deadline
8 is March 1 of 2000.

9 BOARD MEMBER PENNINGTON: Mr. Chairman.

10 CHAIRMAN EATON: Mr. Pennington.

11 BOARD MEMBER PENNINGTON: I'll move
12 adoption of Resolution 1999-378 to approve the policy for
13 formalizing the list of companies that are non-compliant
14 with the recycled-content plastic trash bag certification.

15 BOARD MEMBER JONES: Second.

16 CHAIRMAN EATON: Mr. Pennington moves and
17 Mr. Jones seconds that we adopt Resolution 1999-378 that
18 would adopt options A two and B one.

19 Without objection, substitute the previous
20 roll call. Hearing no objection, so shall be ordered.

21 That brings us now to the public comment
22 period. I see there's only one comment and that comment
23 would be to wish our colleague Mr. Dan Pennington a happy
24 birthday yesterday. And so as in deference to
25 Mr. Pennington, we'll see you tomorrow morning at 9:30, I

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1 believe, and we'll take up the contract concepts and will
2 have completed our business.

3 If you need directions to Cold Canyon, we
4 have them up front. So until 9:30 tomorrow, we stand
5 adjourned.

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